March 4, 2010

Jan Ogilvie, Employee Concerns Manager
U. S. Department of Energy
Idaho Operations Office
1955 Fremont Avenue
Idaho Falls, ID 83415

SUBJECT: RESPONSE TO MARK SICILIANO v. BATTELLE ENERGY ALLIANCE, LLC
CASE NO.: AS-HR-ECP-10-004

Dear Ms. Ogilvie:

Battelle Energy Alliance, LLC (BEA) has received the above-referenced Complaint. The following summary provides relevant facts and other information that counsel for BEA has gathered or assimilated and which counsel believes will be supported by witness interviews or documents provided in the course of this investigation. However, unless a fact or allegation is specifically admitted by BEA, nothing contained in this Summary should be construed as an admission by BEA or used as such in any subsequent proceeding.

I. LEGAL STANDARDS

The Part 708 regulations require that an employee who files a complaint must establish by a preponderance of the evidence that (1) he or she made a disclosure, and that (2) the disclosure was a contributing factor to one or more acts of retaliation.[1]

For a disclosure to be a "protected disclosure" within the meaning of the Part 708 regulations, the employee must "reasonably believe" that the disclosure reveals, *inter alia*, "a ***substantial*** violation of a law, rule, or regulation," "a substantial and specific danger to employees or to public health or safety" or "fraud, gross mismanagement, gross waste of funds, or abuse of authority."[2] Disclosure of insignificant or *de minimus* violations are not protected under Part 708. *See Rose L. Beckham,* 27 DOE 87,543 (1999) (and cases cited therein).

An employment action is not a "retaliation" unless it results in a materially adverse change in employment conditions comparable to a termination of employment, a demotion evidenced by a decrease in wages or salary, or other negative action with respect to "compensation, terms, conditions, or privileges of employment." The definition of the term "retaliation" in the regulations clearly requires that the employer's action must have had a *tangible negative effect on the employee's terms and conditions of employment* in order to constitute a retaliation covered by Part 708.[3]

10 CFR 708.17(c)(2) further provides that a complaint may be dismissed for lack of jurisdiction or other good cause if "the facts, as alleged in [the] complaint, do not present issues for which

[1] *See* 10 C.F.R. § 708.29.
[2] *See* 10 C.F.R. § 708.5.
[3] *See* 10 C.F.R. § 708.2 (emphasis in italics added).

relief may be granted under this regulation." Hence, relief may not be granted under Part 708 unless the complainant shows both a protected activity and a retaliation.[4]

II. THE ALLEGED PROTECTED DISCLOSURE(S)

Siciliano alleges he made the following protected disclosures:

1. Providing "suggestions" in February, 2009, to improve security
   - In support of this allegation, Siciliano attaches an e-mail, dated 2/17/09, addressed to [redacted]. (See Complaint, pgs. 8-11.)

2. Providing remarks as the employees' manager in completing DOE form "Notification of Security Incident," expressing his opinion that the DOE form implies guilt and needs to be modified

3. E-mail exchanges with [redacted] of DOE-ID, in which Siciliano complained to [redacted] that "the only thing out of control is the knee jerk reaction to anything dealing with classified information."
   - In support of this allegation, Siciliano attaches a string of e-mail messages between himself and [redacted], dated 6/22/09, an e-mail from [redacted] to [redacted], dated 6/23/09, and an e-mail from [redacted] to Siciliano, dated 6/24/09. (See Complaint, pgs. 12-22.)

4. Drafting "value statements" to improve leadership and management
   - In support of this allegation Siciliano attaches an e-mail message from [redacted], dated 7/29/09, with a "Department Manager Proposal to Directors for Improving Management Effectiveness in H&HS" as an attachment. (See Complaint, pgs. 26-33.)

5. A verbal exchange with [redacted] regarding department security shortfalls
   - In support of this allegation Siciliano attaches an e-mail from [redacted] to Siciliano, dated 8/23/09, and an e-mail from [redacted] to [redacted], dated 9/2/09. (See Complaint, pgs. 35-39.)

6. Submission of an "equity concern" with BEA's Human Resources Department
   - In support of this allegation Siciliano attaches his complaint filed with [redacted], dated 10/1/09. (See Complaint, pgs. 40-46.)

7. Submission of a security concern regarding [redacted]'s travel, dated 10/12/09

8. Providing critical comment in his SOCOM business update, dated 11/4/09

Clearly, none of these activities constitute "protected disclosures" as defined under 10 C.F.R 708. At most, Siciliano submitted recommendations for improving processes, business strategies

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[4] See 29 CFR 708.5 (What employee conduct is protected from retaliation by an employer? If you are an employee of a contractor, you may file a complaint against your employer alleging that you have been *subject to retaliation for* ....") (Emphasis in italics supplied).

and/or documentation. The matters disclosed by Siciliano to his management do not present substantial violations of law, rule or regulation. In making these suggestions to his management, Siciliano was simply performing his regular and required job duties; and consequently, he could not have reasonably believed that he was engaging in protected activity under Part 708.

Notably, with respect to providing his suggestions in February, 2009, to improve security, Siciliano admits at page 8 of his complaint that many of his recommendations were included in the department's corrective action plan. Obviously, management's acceptance of such recommendations demonstrates a positive reaction to Siciliano's suggestions.

Although Siciliano identifies a "verbal exchange" with [redacted] as a "protected disclosure" under Part 708, the facts indicate that he apologized to [redacted] following the meeting for his conduct. Such apology belies any notion that Siciliano reasonably believed that his exchange with [redacted] constituted a "protected activity."

With respect to the memorandum of security concern filed on October 12, 2009, regarding [redacted] foreign travel, the facts in this case indicate that [redacted] failure to follow the correct procedure was an insignificant or *de minimus* violation, and accordingly, is not protected under Part 708. Further, it is noteworthy that Siciliano repeatedly points to his conversation with his manager, [redacted], on September 22, 2009, as the date he was informed that he would not retain his line management position as a result of the division's reorganization. Clearly, Siciliano believed management had decided to place him in a different position on or before September 22, 2009. Accordingly, because he filed his security concern <u>after</u> September 22, any management action taken with respect to Siciliano's job assignment could not have resulted as a consequence of Siciliano's filing a security concern.

To the extent Siciliano's conduct did not meet his management's expectations, he was provided feedback regarding such matters in his mid-year performance review dated August 2, 2009. For example, Siciliano was counseled to "maintain a professional profile with DOE and peers, particularly in e-mails." Further, Siciliano was counseled that he was expected to display and foster a questioning attitude. However, it was noted that "several staff were overly defensive in written reports to investigators [i.e., DOE F 5639.3], even though infractions were not ultimately issued. This negative attitude cannot be re-enforced by line management [i.e., Siciliano], even if DOE-HQ's required investigation forms need improvement. We must manage to DOE/INL's process expectations." Again, management's response to Siciliano's conduct was constructive and appropriate. There is nothing to indicate that management inappropriately responded to Siciliano's recommendations for process improvement.

IV. THE ALLEGED RETALIATION

As previously noted, an employment action is not "retaliatory" unless it results in a materially adverse change in employment conditions. Although Siciliano complains that his assignment to the Relationship Management 4 position is retaliatory, the facts indicate that his new position actually provides greater opportunities to establish strategic, long-term relationships with INL employees and external customers. Because he is now in a Relationship Manager 4 position, he has unlimited expenditure approval authority for allowable costs. With respect to compensation, Siciliano's new position actually provides a broader salary range. Clearly, taking into consideration numerous factors, including the opportunity for greater responsibility to establish

strategic relationships, additional approval authority and additional earnings, Siciliano's new position is not a materially adverse change in his employment. BEA certainly considers the position of Relationship Manager to be equal, and in some ways superior, to the Line Manager position. Siciliano's desire to continue to manage his former "team" under the previous, obsolete organizational structure does not automatically make his current Relationship Manager job an inferior position, resulting in adverse employment conditions. Further, during the division's reorganization, other individuals were also assigned to different positions. Clearly, Siciliano was not treated differently from other employees. Consequently, Siciliano's transfer to a Relationship Management 4 position is not retaliation under Part 708.

V. AVAILABLE REMEDIES

With the exception of reinstatement, all other remedies sought by Siciliano are unavailable under 10 C.F.R. § 708.36.

CONCLUSION

For the foregoing reasons, Siciliano's Part 708 Complaint filed herein must be dismissed. If you require additional information, please do not hesitate to contact me at [redacted] or e-mail me at [redacted]

Sincerely,

[redacted]

Senior Counsel

[redacted]

Attachments

Department of Energy
Idaho Operations Office
1955 Fremont Avenue
Idaho Falls, ID 83415

December 22, 2009

CCN: 219590

RECEIVED
JAN - 4 2010

[redacted]

[redacted]
Battelle Energy Alliance, LLC
P.O. Box 1625
Idaho Falls, ID 83415-3695

SUBJECT: Mark David Siciliano10 CFR 708 Whistleblower Complaint (AS-HR-ECP-10-004)

Dear [redacted]:

Enclosed is a 10 CFR 708 Whistleblower Complaint filed by Mark David Siciliano, an employee of Battelle Energy Alliance. According to 10 CFR 708.16, your management has ten (10) days from the receipt of this complaint to provide any comments to Jan Ogilvie, Idaho Operations Office Employee Concerns Program Manager.

If all parties are in agreement, an informal resolution process such as mediation may be used to resolve the complaint. This informal resolution process is limited to 30 days unless all parties agree to an extension. If the parties resolve the complaint informally, a written copy of the settlement agreement must be provided to the DOE-ID Employee Concerns Program Manager.

If you have any questions, please contact me at 526-9272.

Sincerely,

Jan Ogilvie

Jan Ogilvie, Employee Concerns Program Manager
Idaho Operations Office

Enclosure

10 CFR Part 708 (Whistleblower) Complaint Filing Instructions

The following information is required to process your complaint. This basic information will be made available to DOE, the contractor or subcontractor against whom the complaint is filed for purposes of resolving or investigating the complaint. There is no specific form or format required, but the information requested should be complete, including elements which may not be applicable (simply state Not applicable). This information needs to be submitted within 90 days of your being retaliated against.

A. PROCESSING INFORMATION:

1. Complainant. (Include your full name, mailing address to which you want all correspondence directed, and telephone number.)

2. Complainant Legal Representative (if Applicable). (Include your attorney's name, mailing address, telephone and fax numbers.)

3. Field Element. (Identify the DOE Field element receiving this complaint and the assigned contact person. For INL employees, this is DOE-Idaho Operations Office, and the contact person is Jan Ogilvie, Employee Concerns Manager.)

4. Contractor Data. (Identify the contractor or subcontractor against whom the complaint is filed, and also the primary management employees or others named in the complaint, noting their positions or titles.)

5. Previous Resolution Attempts/Other Actions. (Required by 10 CFR Part 708): Describe the steps that show that you have exhausted all applicable grievance-arbitration procedures

   (a) Did you use your contractor's internal grievance procedures? Explain, including dates and results.

   (b) Have you sought a state, Federal or other remedy? Explain, specifying the agency, date filed, and case status.

   (c) Have you attempted to resolve your complaint through the DOE Informal Resolution Process (i.e. with the DOE Employee Concerns Program)? Explain including dates and results.

B. COMPLAINT INFORMATION:

1. Employee's Disclosure ("Whistleblowing" Action) or Refusal. (Describe the specific disclosure or refusal to act, including circumstances and dates. Indicate whether it: involves health or safety; involves a violation of a law, rule or regulation; constitutes fraud, waste or abuse, or poses a danger.)

2. Retaliatory Action (Reprisal). (Describe the specific actions believed to have been taken against you, the circumstances, and dates. Explain how you believe the disclosure or refusal led to the reprisal and any harm experienced.)

3. Remedy Sought. (Describe the action or relief that you desire, if it is found that the above cited reprisals resulted from a protected disclosure or refusal.)

☐ I request a hearing through the DOE Office of Hearings and Appeals.
☐ I request an investigation through the DOE Office of Hearings and Appeals.

December 11, 2009

From: CDR Mark D. Siciliano, USN-Ret.
9733 Andee K Lane
Pocatello, ID 83204
208-360-4367

To: Ms. Janice Ogilvie, DOE-ID Employee Relations

SUBJECT: 10 CFR PART 708 (WHISTLEBLOWER) COMPLAINT

Dear Ms. Ogilvie,

It is with deep regret that I am filing an official 10 CFR Part 708 Complaint against Bettelle Energy Alliance for damages incurred as a result of retaliation that has resulted in a reassignment of my position, reduction in authority, reduction in accountability, a reduction in responsibilities, negative impact on my professional reputation, negative impact on my ability to promote as well as defamation of character. I have gone from a department manager where I supervise 79 employees and subcontractors, manage a [redacted] budget, manage [redacted] in Business Volume, employ 55 FTE's, have the authority to approve travel, procurements, and direct the management of a multitude of classified projects and conduct client interface throughout SOCOM, DOD and the IC, to being a relationship manager where I supervise no one, have a minimal budget compared to my previous position, and have little or no approval authority. Furthermore, I have been given a very narrow client sent compared to other relationship managers. For example: One relationship manager is responsible for the entire DoD and OSD client set (approx [redacted] Dollars) while I am managing a client with less than 2% of that. Finally, due to recent decisions by the ALD of National and Homeland security to "divest" from what I believe to be very low risk work, the SOCOM client that I am responsible for has virtually pulled out of the INL. It appears to me that I am being "set up" for failure.

E4

E4

1. I was informed on the 22nd of September, by my director [redacted] that the ALD of National and Homeland Security, [redacted] considers me "unfit" to be a Department Manager. When I asked [redacted] why, he referenced the following:

A. An email exchange between me and [redacted] of DOE-ID that [redacted] was furious about.

B. A verbal exchange I had with [redacted] in which [redacted] blamed my department in an open forum for the security shortfalls incurred for the entire NHS Division.

C. Written remarks I made when several of my employees expressed concerns over accusations of responsibility for a security infraction before an investigation was completed. For my effort, I was required to fill out a statement of the incident several months later which I gather was to teach me a lesson. Sadly, I wasn't even an employee when the incident took place. That's retaliatory in and of itself.

D. A perception that I do not care about security which is ridiculous, arbitrary and capricious.

Additionally, I believe I have been retaliated against because:

-- I provided my leadership with numerous suggestions starting twenty months ago to improve our security posture to include recommendations provided in writing in February of 2009. I received no feed back from my leadership on these recommendations and BEA leadership did not act in a timely manner to safeguard our classified information and inaction resulted in several additional infractions.

-- I drafted value statements as a result of the Management Self Assessment and Corrective Action Plan to improve the leadership and management in National and Homeland Security which was filtered by the Directors in National and Homeland Security. (Correspondence attached)

-- After discovering that the [redacted] traveled to a sensitive country without following the proper protocol for someone with a TS/SCI clearance I submitted a memorandum of security concern to the FIE Director and Deputy FIE Director as I am required to do when a security issue arises. (correspondence attached)

-- I commented in writing in my periodic SOCOM business update that SOCOM is divesting from the INL due in part to the ALD's decision to turn down low-risk classified work in which we lost [redacted] in funding and millions in additional follow-on work. (Correspondence attached). This work is of National strategic importance and the INL could have played an important role in the security of our nation, however the NHS leadership appears to be more concerned about receiving a potential IMI than they are of meeting the real-world challenges facing our country. I understand this is the ALD's decision, however as the relationship Manager for SOCOM it reflects negatively on me as well as the Laboratory. Specifics are classified. E4

-- I submitted an equity concern because I was misled and when I was hired as a Department Manager 3 in the Special Programs Division. (Correspondence attached).

I also believe there is an element of discrimination due to a disability that I should be reasonably accommodated for, which does not include being forced out of a department manager position because I am direct and to the point. My supervisor is aware of this disability.

As a result of the above, I was reassigned on the 7th of December, 2009 which I consider the date of retaliation.

<u>Previous Resolution Attempts and Additional Complaint Information</u>:

It is important to recognize that until the 22nd of September I had no idea there was an issue with my performance. The only mildly negative feedback I received on my mid-year review was "to be more careful when interaction with DOE employees and in emails." Once I was told that I was considered "unfit" to be a department manager on the 22nd of September, I immediately contacted [redacted] in Diversity to seek a resolution and file a memorandum for the record to document the facts concerning these issues. [redacted] recommended and I agreed to meet with the Directors and [redacted] one-on-one in order to address these concerns. To that end, [redacted] wanted to set up the meeting

with the [redacted] was aware of that. Between October 2nd and 5th I set up individual meetings with the Directors ([redacted] and I had already spoken to [redacted]). [redacted] indicated that [redacted] did not want to meet with me (refused) and said "**whatever** it is, let [redacted] handle it." The primary purpose of meeting with [redacted] was to discuss the facts in an attempt to clear up any misconceptions concerning my performance as well as discuss my department's performance and an equity concern that I had. I did meet with the Directors and felt the meetings with [redacted] were productive. The meeting with [redacted] was less productive and I believe he resents me standing up to his address to my department in which he wrongfully concluded that "all the security issues stem from this audience and this building" or words to that affect. You will read in my supporting documentation that personnel in my department have not received one single infraction in over seventeen months. It is important to note that each Director told me how "pissed off" [redacted] was concerning my email exchange with [redacted] from DOE-ID, as well as the comments I made when [redacted] addressed my department, and the concerns that I brought to the attention of senior management when my employees were very concerned about being pre-judged and signing a form that indicated they were responsible for a security incident before an investigation was completed. I explained to them that I had no idea there were any concerns or issues with my performance and that I cannot self correct when I receive no feedback. Each director told me "they would have no problem working with me, however I had virtually no chance of influencing [redacted] opinion of me or decision not to consider me for a Department Manager position under the reorganization" or words to that affect. In short, without the facts, [redacted] used the reorganization of National and Homeland Security to remove me from a department manager position. It is very, very important to note that each director referenced how "pissed off" [redacted] was concerning my email exchange with [redacted], because [redacted], in the presence of [redacted] and I, denied he ever read it or knew anything about it. Keep in mind this individual holds a TOP SECRET/SCI and DOE Q clearance and is trusted with extremely sensitive classified information. I gave [redacted] at least three opportunities to tell the truth, but in each case he said he didn't know anything about an email from [redacted] was present.

At any rate, since the [redacted] refused to meet with me I saw no other option except to go forward with the equity complaint. It is important to read this complaint in its entirety as it speaks to the deception and deceit in which we operate under the leadership of National and Homeland Security. I felt that the Leadership and Management Team of the Laboratory need to be informed of the situation so I copied them on the email with the attached complaint.

Once [redacted] saw the email and that the Laboratory leadership was now in the loop, he immediately set up a meeting with me to discuss the equity issue. Due to being misled in the past, I was uncomfortable meeting with [redacted] one-on-one and I requested that [redacted] attend the meeting with me. All parties agreed.

I took the opportunity in the meeting to address the derogatory comments about me and any concerns that [redacted] might have about my performance. When I began to discuss the email exchange with [redacted] he denied knowing anything about it and that "this was the first I've heard of this." I mentioned to [redacted] that I felt like I was being retaliated against without an opportunity to defend or explain my position. For the record, not only was [redacted] on the original email string, there were several other emails to and from [redacted] where he commented on it. Copies of these can be found on [redacted] computer and I have read them myself. Furthermore, he instructed [redacted] to make

sure I was counseled on it during mid-year reviews and finally, [redacted] commented in writing on [redacted] copy of my mid-year review. To summarize, [redacted], who holds a TS/SCI/Q clearance willfully and wantonly lied to his employee, a member of the FIE, and I can and will prove it. The motivation to lie about this is to avoid admitting he retaliated against me.

After this event and due to the senior level of the individual involved I have lost confidence in BEA's ability to come to a fair and equitable resolution. I have met with Ms. Janice Ogilvie of DOE-ID Employee Concerns in an attempt to resolve these issues and/or begin the 10CFR Part 708 process.

Additional information to include a Memorandum for the Record and other correspondence is attached.

Remedy Sought:

1. I am concerned about the ethical conduct of [redacted] as it relates to his senior position and I question his judgment and character as it relates to security. Therefore, the immediate suspension of [redacted] security clearance pending a full investigation of his ethical conduct and behavior as it pertains to his ability to maintain a security clearance is in order. This investigation should be done by DOE IN, or the appropriate authority, and I would like his record as the [redacted] at the INL reviewed as it pertains to security performance as well as his ethical conduct.

2. Immediate reinstatement as a Department Manager in Special Materials and Processes with my previous collateral duties as the strategic relationship manager for USSOCOM included.

3. I would like the equity complaint reviewed and adjudicated along with a leveling in pay and grade between myself and [redacted] and reimbursement of back pay from the time I became a department manager until I am leveled.

4. I would like a full investigation conducted by DOE to determine if [redacted] lied or misled me as it relates to the information provided in this complaint or uncovered during an investigation. I would ask that this information be provided to the Laboratory Director to determine [redacted] suitability to perform his assigned duties and responsibilities in a position of national trust.

5. I request that I am not retaliated against for filing this complaint or security concerns. And I want anyone who misrepresents the truth to be held accountable during the adjudication of this complaint.

Complaint Legal Representative: Not retained at the moment

[redacted]
490 Memorial Drive
Idaho Falls, ID
Phone: [redacted]

DOE Field Element is DOE-Idaho Operations Office, and the contact person is Jan Ogilvie.

(208)-526-9272

Contractor Data: Battelle Energy Alliance–[redacted]

In the conduct of an investigation, I request at a minimum the following personnel be interviewed:

Email to [redacted] to include his files and computer records on the incident, [redacted] as a witness to the meeting with [redacted] (DOE).

[redacted]**'s address to my department:** [redacted]

Concerns of my employees during a security investigation: [redacted]

Security Proactiveness: Anyone in my former department.

Being lied to or misled by [redacted] to include his documentation.

Very Respectively,

Mark D. Siciliano

MARK D. SICILIANO

COMPLAINANT'S AFFIRMATION
(Required by 10 CFR Part 708.12 (d) and 708.13)

I MARK DAVID SICILIANO affirm that:
(Full Name)

a. I have not pursued a remedy available under State or other applicable law;

b. All facts contained in this complaint are true and correct to the best of my knowledge and belief; and

c. With regard to the Company Grievance Procedure: (Mark all that apply.)

X (1) All attempts at resolution through applicable grievance – arbitration procedures have been exhausted. Provide the date on which the grievance – arbitration procedure was terminated and the reason for termination;
I WORKED WITH MR. [redacted] FROM 26 SEP UNTIL 11 DEC ON THIS.
[redacted] IS FROM [redacted]

_____ (2) A grievance was filed under applicable grievance – arbitration procedures, but more than 150 days has passed and a final decision has not been issued. Provide the date that you filed your grievance.

_____ (3) The company has no grievance – arbitration procedure.

_____ (4) The company has a grievance procedure but you are not required to participate and you choose not to.

If you do not provide the above information your complaint may be dismissed for lack of jurisdiction.

Complainant: Mark David Siciliano
(Signature)

Date: 11 December 2009

Please attach this required affirmation to your complaint along with the requested information regarding use of the company grievance procedures.)

Mark D Siciliano/SICIMD/CC01/INEEL/US

12/01/2009 04:55 PM

To [redacted]

cc Mark D Siciliano/SICIMD/CC01/INEEL/US

bcc [redacted]

Subject Fw: SECURITY THOUGHTS

[redacted]

Sent to every director and mentioned in several Tuesday meetings. Many recommendations were included in the CAP.

Mark

Idaho National Laboratory

Mark Siciliano, Department Manager, Special Programs
National & Homeland Security Directorate
Idaho National Laboratory
P.O. Box 1625, MS-3520, Idaho Falls, ID 83415-3520
O: 208-526-4464, C: 208-360-4367, STE: 208-526-4464
Email: Mark.Siciliano@inl.gov
SIPR: sicilimd@idaho.doe.sgov.gov, IC: idsicimd@doe.ic.gov
(Please call/email if a time critical msg sent to SIPRNET)

Mark D Siciliano/SICIMD/CC01/INEEL/US

Mark D Siciliano/SICIMD/CC01/INEEL/US

02/17/2009 07:41 PM

To [redacted]/INEEL/US@INEL

cc [redacted]

Subject SECURITY THOUGHTS

[redacted]

Thank you for volunteering to be our moderator for next week's security working group. While it's fresh in my mind, I wanted to send you a few of my thoughts. Some of these suggestions may be out of our sphere of influence, but I'm hopeful that they will stimulate dialogue and other ideas from my colleagues.

[redacted]

- Professional Guard located at the entrance to our secure facilities

Pro's:

We should NOT rely on Admin Assistants, some who are new and pending clearances themselves, to be our first line of intervention. This is an identified at-risk behavior that we are working under right now. We have guards at EROB and Admins at UB2. This needs to be fixed.

A guard at UB2 and IWB would facilitate our badging requirements and make it easier on our clients and visitors. It would reduce the risk of an "unbadged" contractor from entering our secure areas. It also puts part of the responsibility for security on the SECURITY FORCE.

CON's:

Expense associated with guard force, union positions, ?

Implementation: Potentially near term (optimistic)

Impact: LONG TERM

- **Establish shared drives on our classified networks** (requested 4 weeks ago)

PROs:

Allows multiple people to work off of one electronic document without creating multiple classified CDs thereby reducing classified media and risk

Reduces workload on Admins, IT's, ASSO's, and project managers

Greatly improves overall productivity and timeliness while producing classified monthly reports, presentations, and spreadsheets with multiple authors

CONs:

Takes an investment in time to initially set up

- **Engineering barrier that picks up cell phones upon entrance to building (detectors, wands, etc.)**

PRO's:

They work.

CON's:

Can be costly

- **No cell phones or electronic devices should be allowed inside our buildings, <u>even in the lobbies</u>. This is especially true for UB2, UB3 (SECURE lab), IWB and SAF.**

PRO's:

Adds one more ring of protection. Adds a buffer zone to allow an individual to self correct / identify potential problem before it's an infraction.

CON's:

Minor inconvenience of walking all the way to our cars to check our cell phone voice mails. Most people go to lunch so I don't see this as a big deal.

- **Establish Semi-Annual Clean-out Day** combined with SECURITY refreshers, training, etc.

PRO's:

Did this once a year in the service and it works. Twice a year would be appropriate for this environment. Review all classified documents and CD's and destroy what is no longer required. Review and update classified working papers. Scan classified documents into networked storage system. Creates a pro-active culture vice a reactive culture.

CON's:

Will take a little time and oversight.

Implementation: Immediate

Impact: Immediate and long term

- **Networked classified scanners**

PRO's:

Scan documents and store them electronically. Back up electronic files periodically. Reduces classified paper accumulation and overall risk. Endstate should be– ability to scan a classified document into your own directory. Shredder located next to the scanner to destroy the classified media.

CON's:

Expense associated with purchase of scanners and labor to network them into our system.

Implementation: Immediate

Impact: Immediate and Long Term

- **Industrial strength paper shredders located in every major container area.** Not in the lobby, across the hall, down the stairs, etc. **Completely get rid of "Burn Bags"** which are storage areas for potential security infractions.

PRO's:

If it's convenient people will gladly use them. CD shredders should also be convenient.

CON's:

Can be expensive, but worth it. (I need one; it's on my list)

Implementation: Immediate

Impact: Immediate and Long Term

- **SIPRNET in UB2 and IWB**

PRO's:

Too many to list. From a security standpoint, it alleviates the requirement to burn a classified CD or carry a classified document to WCB to work on or send. It also reduces the incredible waste of manpower required to accomplish the most simple task of emailing a monthly report to our DoD clients.

CON's:

None great enough to impact the positive aspects.

Implementation: UNKNOWN

Impact: LONG TERM

- **Individual Accountability (both positive and negative)**

There needs to be effective and swift measures to deal with infractions to include guidelines and standards. In a revolving year:

1 infraction = XX plus documented verbal warning (goes away in 1 year)
2nd infraction = -$$ plus documented deficiency in AR
3rd infraction = - $$$$ plus documented deficiency in AR,

** I'm looking for standardized guidelines with the flexibility to use good judgement that are germane to all of N&HS

Positive note: Can we compensate personnel who accept the additional risk associated with working on classified projects? Example: jump out of perfectly good planes = jump pay; combat zone = hostile fire/ imminent danger pay, etc. Doesn't have to be a great amount, but it would be a positive thing to reward people who do it all right in a given year. HR help me here....

I put this last because it's probably out of the scope of next week's meeting and should be tackled separately. I do think it's relative and important though. I drive pretty close to the speed limit, not because I don't want to get to where I'm going faster-- rather I don't want to pay a speeding ticked or see my insurance go up. That's just me though.

EMAIL Exchange w/ [redacted]

[redacted]/INEEL/US
12/07/2009 08:42 AM

To Mark D Siciliano/SICIMD/CC01/INEEL/US@INEL
cc
bcc
Subject Fw: Classified Address Check

— Forwarded by [redacted] on 12/07/2009 08:42 [redacted]

[redacted]
06/22/2009 03:13 PM

To "Siciliano, Mark David" <mark.siciliano@inl.gov>
cc [redacted]

[redacted] KNEW ABOUT IT [redacted]

Subject RE: Classified Address Check

Registration of classified interests is not a knee jerk reaction, it's a federally mandated requirement. I would caution you if the information you are sending through DoD channels is property of DOE.

From: Mark D Siciliano [mailto:Mark.Siciliano@inl.gov]
Sent: Monday, June 22, 2009 1:30 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Classified Address Check

Thanks for the note [redacted]

It appears to me that the only thing out of control is the knee jerk reaction to anything dealing with classified information.

I will find another way to accomplish this task. I will work directly with the DoD client and have them transfer the brief. I should have gone this route in the first place. Thanks for all your help.

Mark

Idaho National Laboratory

Mark Siciliano, Department Manager, Special Programs
National & Homeland Security Directorate
Idaho National Laboratory
P.O. Box 1625, MS-3520, Idaho Falls, ID 83415-3520
O: 208-526-4464, C: 208-360-4367, STE: 208-526-4464
Email: Mark.Siciliano@inl.gov
SIPR: sicilimd@idaho.doe.sgov.gov, IC: idsicmd@doe.ic.gov
(Please call/email if a time critical msg sent to SIPRNET)

[redacted]
.gov>

06/22/2009 01:03
PM

To "Siciliano, Mark David" <mark.siciliano@inl.gov>
cc [redacted]

Subject RE: Classified Address Check

Hi Mark,

I do apologize if the strong language has offended you however, this contract started out approved for NSI information only at BEA facilities. They subsequently created an SRD document at their location. This could have had significant impacts to not only this particular contract, but to the entire National Security Program and the BEA contract. While DOE-ID did approved ATK to possess information at the Clearfield location, it was after the fact. For the last couple of months I have been asked about meetings at a facility in Magna, informed they have constructed another facility in West Virginia, and then today I get a request for a Baltimore location. From an approval authority for classified interests, it appears very out of control.

I'm not sure what you mean by "in-brief" or what "FOCAL POINT" is. I will tell you the only location approved by DOE for DOE and DOE contractor interests is the Clearfield location. If you would like to establish possessing interest at other locations, DOE requirements will need to be followed. This will include on-site survey's and/or coordination with the cognizant security authority for the other locations. I will state that ID will not register and approve facilities based on convenience.

As I have told [redacted] for the last three months, before any action will be taken by this office, [redacted] will need provide us with his approval. Again if you would like to get all interested parties together to discuss this, I would gladly attend to provide assistance where I can.

Thanks

[redacted]

Idaho Operations Office

[redacted]

From: Mark D Siciliano [mailto:Mark.Siciliano@inl.gov]
Sent: Monday, June 22, 2009 10:44 AM
To: [redacted]
Cc: [redacted]
Subject: Fw: Classified Address Check

[redacted]

What exactly is the issue here? I'm going to in-brief the [redacted] of ATK on FOCAL POINT. [redacted] has requested to make sure the address is right for sending classified information at the SECRET level. There is nothing RD in this brief.

I give this briefing routinely as part of my job. There is nothing out of control here.

Mark

Idaho National Laboratory

Mark Siciliano, Department Manager, Special Programs
National & Homeland Security Directorate
Idaho National Laboratory
P.O. Box 1625, MS-3520, Idaho Falls, ID 83415-3520
O: 208-526-4464, C: 208-360-4367, STE: 208-526-4464
Email: Mark.Siciliano@inl.gov
SIPR: sicilimd@idaho.doe.sgov.gov, IC: idsicmd@doe.ic.gov
(Please call/email if a time critical msg sent to SIPRNET)

—— Forwarded by Mark D Siciliano/SICIMD/CC01/INEEL/US on 06/22/2009 10:38 AM ——

—— Forwarded by [redacted] on 06/22/2009 09:26 AM ——

[redacted] To [redacted]

06/22/2009 09:18 AM

cc [redacted]

RE: Classified Address Check
Subject

* Brief had nothing to do with current contract work

Where is Baltimore coming from????? I knew of Clearfield, Magna and West Virginia but this is new to me! I hate to be a cog in the wheel but this is getting out of control. We start with one little room and now we're in three different states! Additionally, I come back to a voice mail from [redacted], [redacted], asking how to move INL contract activities to West Virginia, not Baltimore!

I am not going to enter or approve anything until things are explained better, justified and approved on your side. There is an agreement between Green and KP that he must agree before we are to proceed with requests from his group. Unless something changes, that is the policy I am required to follow. As of now, the BEA contract with ATK is **ONLY** approved at the Clearfield location. If everyone would like to get together and discuss this, I will be more than happy to attend.

From: [redacted]
Sent: Monday, June 22, 2009 7:44 AM
To: [redacted]
Subject: Fw: Classified Address Check

[redacted], is this ok? Thanks, [redacted]

---- Forwarded by [redacted] on 06/22/2009 07:43 AM ---[redacted]

L/US To [redacted]

06/18/2009 01:37 PM [redacted]

Subject Fw: Classified Address Check

[redacted] - Attached is the Security Assurance paperwork for the ATK Baltimore facility. We plan to hold a discussion there in a few weeks and would like to send the briefing to them in advance. Would you please run this through the system to get the necessary approvals? I will be out of the office next week. If you complete the paperwork by then, would you send a copy to [redacted] and to me?

Thank you.
[redacted]

----- Forwarded by [redacted] on 06/18/2009 01:30 PM -----
"[redacted]

06/18/2009 01:27 PM "[redacted]

cc

Subject RE: Classified Address Check

Thanks
[redacted]

From: [redacted]
Sent: Tuesday, June 16, 2009 6:05 PM
To: [redacted]
Subject: Fw: Classified Address Check

[redacted] - would you lease help to resolve this? When you return the form, please cc the others as they will be handling this. Call me at [redacted] if we need to discuss this. I spoke to [redacted] and he is good with it all.

Thank you.

[redacted]

—— Forwarded by [redacted] on 06/16/2009 04:01 PM ——

[redacted]

To [redacted]

cc [redacted]

06/16/2009 03:45 PM

Subject Re: Classified Address Check Link

This address is not in the SIMS System. If you need it entered here is the form.

[redacted]

To [redacted]

cc [redacted]

06/16/2009 01:16 PM

Subject Classified Address Check

[redacted]

Please check the following classified address:

[redacted]

Baltimore, MD 21281

Thanks,

[redacted] *(See attached file: scan0002.pdf)*

[redacted]

==========

[redacted]

National & Homeland Security Directorate
Idaho National Laboratory
O: [redacted]
Email: W[redacted]
(Please call/email if sent time sensitive SIPRNET)

[redacted]

---- Original Message ----
From: [redacted]
Sent: 06/22/2009 01:04 PM MDT
To: [redacted]
Cc: [redacted]
Subject: Fw: Classified Address Check

[redacted]

Please review the ATK situation with your team and provide a recommendation. Seems to me that we are getting pushed by our own people to take on unnecessary risk. I am stopping any progress until you and I meet to discuss your recommendation.
Thanks,

[redacted]

---- Forwarded by [redacted] :00 PM ----

[redacted]

06/22/2009 09:18 AM

To [redacted]

Subject RE: Classified Address Check

Didn't know? Blatant misrepresentation of the truth.

Where is Baltimore coming from????? I knew of Clearfield, Magna and West Virginia but this is new to me! I hate to be a cog in the wheel but this is getting out of control. We start with one little room and now we're in three different states! Additionally, I come back to a voice mail from [redacted], [redacted], asking how to move INL contract activities to West Virginia, not Baltimore!

I am not going to enter or approve anything until things are explained better, justified and approved on your side. There is an agreement between [redacted] and [redacted] that he must agree before we are to proceed with requests from his group. Unless something changes, that is the policy I am required to follow. As of now, the BEA contract with [redacted] is **ONLY** approved at the Clearfield location. If everyone would like to get together and discuss this, I will be more than happy to attend.

[redacted]

06/22/2009 09:09 PM

To [redacted]
cc
bcc [redacted]
Subject Re: Classified Address Check

I will look into it, both with security and our folks.

In one respect there is confusion/over-reaction to fact that ATK is involved in other DoD hosted efforts not related to INL contract (so DoD certifies facility, not DOE).

But there is something very strange about either:
1) INL/DOE-ID's process for verifying DoD certified facilities, or
2) The way ATK is certified by DoD (or claiming to be).
If I understand correctly, this keeps coming up as "not found" in our local checks of if ATK's facilities are certified to receive info.

If #1, we need to fix our process to verify secure facilities.

If #2, then we are being pressured by customer in wrong ways and need to provide info to client on how things are done right.

I also need to look into why we are asked to brief DoD client's dissemination controls (FOCAL POINT).

[redacted]
==========
[redacted]
National & Homeland Security Directorate
Idaho National Laboratory
[redacted]
(Please call/email if sent time sensitive SIPRNET)

more Verification that [redacted] knew all about this email & subsequent emails. Yet he denied it multiple times

[redacted]

—— Original Message ——
From: [redacted]
Sent: 06/22/2009 01:04 PM MDT
To: [redacted]
Cc: [redacted]
Subject: Fw: Classified Address Check

[redacted]
Please review the ATK situation with your team and provide a recommendation. Seems to me that we are getting pushed by our own people to take on unnecessary risk. I am stopping any progress until you and I meet to discuss your recommendation.
Thanks,
[redacted]

—— Forwarded by [redacted] INEEL/US on 06/22/2009 01:00 PM ——

[redacted]

06/22/2009 09:18 AM

To [redacted]
cc [redacted]