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**Before the  
Subcommittee on Financial and Contracting Oversight  
Committee on Homeland Security and Government Affairs  
U.S. Senate**

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Thank you, Chairman McCaskill, Ranking Member Johnson, and Members of the Committee. I am here today to discuss the Department of Energy's (DOE) efforts to improve workplace safety culture. Creating and maintaining a robust safety culture, including a workplace where all employees feel free to raise concerns and ask questions—and have confidence that those questions and concerns will be addressed—is essential to achieving our mission at the Hanford site in Washington State and across the DOE complex.

**Safety Culture at DOE**

DOE believes safety culture is best described as an organization's values and behaviors modeled by its leaders and internalized by its members, which serve to make safe performance of work the overriding priority to protect the workers, public, and the environment.<sup>1</sup> We take this concept seriously and ensuring the safe performance of work is the overriding priority at the Department.

In managing safety culture, the Department focuses on three approaches:

- Instilling and holding managers accountable for leadership behaviors that foster a strong safety culture, and driving these behaviors down thru the headquarters and field organizations.
- Ensuring line managers encourage a vigorous questioning attitude toward safety, and fostering constructive dialogues and discussions on safety matters.
- Establishing a high level of trust, in which individuals feel safe from reprisal when raising safety concerns, differing points of view are solicited and encouraged, management provides relevant and timely information to the workforce, and vigorous corrective action programs are effectively implemented.

Improving safety culture across the Department is a top priority. In a September 20, 2013, memorandum to the Heads of all Departmental Elements, the Secretary and Deputy

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<sup>1</sup> DOE G 450.4-1C, *Integrated Safety Management System Guide*.

Secretary of Energy reaffirmed their commitment to health and safety through leadership, employee engagement and organizational learning by pursuing a safety culture built on an environment of trust and mutual respect, worker engagement, and open communication, an atmosphere that promotes a questioning attitude with effective resolution of reported problems, and continuous learning. The memorandum recognized that DOE can advance its challenging missions only if it provides all employees a safe and healthy work and environment and fosters a culture in which workers at all levels are empowered to raise problems, participate in the development of solutions, and are engaged appropriately in decisions that affect their work.

### **Efforts to Improve Safety Culture at Hanford**

Shortly after his confirmation, the Secretary of Energy traveled to Hanford to gain a firsthand understanding of the technical issues we are working to resolve at the Waste Treatment and Immobilization Plant (WTP), as well as the Department's efforts to improve safety culture at the site. The Secretary continues to engage DOE senior leadership and employees to underscore the importance of a robust safety culture and to receive updates on the Department's progress on actions to improve the safety culture at headquarters and at our sites.

The efforts taken over the last two years by the Department to improve safety culture at Hanford are extensive and varied. The Department identified many of its key actions in the Implementation Plan for Defense Nuclear Facilities Safety Board (Board) Recommendation 2011-1, *Safety Culture at the Waste Treatment and Immobilization Plant*. I would like to share some of these key actions with you to illustrate the changes that have already been made, are occurring now, and are part of the Department's plan for the future.

#### ***Change in Leadership***

New leadership has been put in place at DOE Headquarters. The new DOE leadership has the qualifications, experience, and safety values to put the WTP on a sustainable path. The Department has been clear with both prime contractors that we expect them to establish and sustain a positive safety culture. These organizational changes are making a difference in safety culture now, but realizing their full impact will take time.

#### ***Increased Management Accountability***

The Department clarified formal roles and responsibilities for management in the WTP Project Execution Plan, which is the DOE document that communicates to the contractor project objectives and how they will be accomplished. The Department also revised the WTP contract performance evaluation measurement plan – used to establish measures of performance and inform award fee determinations – to better balance priorities and emphasize quality and safety culture elements.

DOE implemented a safety culture oversight process at WTP wherein ORP senior management meets regularly with contractor management to formally review the

contractor's progress in executing its safety culture improvement action plan, the results achieved, and identifies any areas needing additional attention. Similarly, EM senior leadership formally reviews ORP's progress in executing its safety culture improvement action plan and identifies any areas needing coordination with or support from DOE Headquarters.

### *Safety Conscious Work Environment Training*

The Department designed training to assist in reinforcing a positive safety culture and engaged in an extensive effort to provide this training at Hanford and across the DOE complex. Beginning in December 2011, a team of Federal and contractor subject matter experts from across DOE, the National Nuclear Security Administration, national laboratories, and DOE site contractors worked with the DOE National Training Center to design, develop and deliver a course titled "Safety Conscious Work Environment."

The team developed the course based on best practices in the commercial nuclear industry, the oil and gas industry, and other high hazard industries. The goal of the course is to equip senior managers to foster a work environment that promotes trust, a questioning attitude by employees, and effective resolution of issues that have been raised. The course also gives managers personal leadership tools that can be applied immediately to improve an organization's work environment, accountability, conflict resolution, and communication.

One important feature of the course is that both DOE and contractor senior leaders and managers from all functional areas receive it together. The training takes place in a small class setting, which improves interaction between DOE and contractor leaders and provides opportunities for partnering and sharing perspectives. To date DOE has trained approximately 1800 federal and contractor leaders and managers. Federal and contractor leaders at Hanford have taken this course, as have leaders from DOE Headquarters and many other sites across the DOE complex.

### *Enhanced Avenues for Employee Concerns*

The Department is working to strengthen the avenues to address issues raised by contractor and federal employees. A comprehensive Issues Management System has been established at ORP to ensure that new and previously identified issues are addressed and tracked to closure. The Issues Management System has what is called a "zero threshold," which means that we encourage employees to raise all issues they feel are important. The Department has strengthened the Hanford Employee Concerns Program, hired a new Employee Concerns Manager at Hanford, and continues to administer its Differing Professional Opinion process, both of which provide additional avenues for employees to raise issues. The feedback we have received from the ORP employee-led Safety Culture Improvement Team is that these actions are making a difference in the safety culture at the field office.

## **Remedies for Contractor Whistleblowers**

DOE is strongly committed to a workplace where all workers—both federal and contractor employees—are free to speak out, voice concerns, or lodge complaints without fear of retaliation. In particular, contractors are statutorily and contractually bound not to retaliate against employees for protected whistleblower conduct.

Employees of DOE Contractors can access multiple processes to raise claims of whistleblower retaliation. These include:

- The whistleblower protection provision of the Energy Reorganization Act, which offers an avenue for contractor employees who believe that they have experienced retaliation for, among other things, reporting alleged violations of nuclear safety laws or regulations.<sup>2</sup> An employee initiates an action by filing a complaint with the Department of Labor. If the Department of Labor does not issue a decision on the complaint within one year, an employee may file a complaint in the United States District Court.
- DOE regulations, contained in 10 C.F.R. Part 708, which establishes a process to resolve complaints by DOE contractor employees alleging retaliation by their employers for protected conduct.<sup>3</sup> DOE's Office of Hearings and Appeals investigates and adjudicates these claim.
- Under the Federal Acquisition Regulation, contractor employees can also submit retaliation complaints to DOE's Inspector General.<sup>4</sup> The Inspector General is empowered to investigate and provide a report to the agency on its findings.

The contractor employee makes the choice of which process or, in some cases, processes to invoke. If one of these processes results in a finding that there has been whistleblower retaliation, a variety of remedies may be directed for the benefit of the affected employee. The remedies vary slightly according to the process that rendered the finding but generally include: reinstatement; back pay; and attorney's fees.

DOE contracting officers do not adjudicate whether there has been whistleblower retaliation, but they and others involved in contract administration would utilize conclusions made by appropriate adjudicators in: award fee determinations; evaluation of contractors for additional work; disallowing costs charged by the contractor in connection with the retaliation and related adjudication; and input into government-wide contractor performance reports.

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<sup>2</sup> 42 U.S.C. § 5851.

<sup>3</sup> 10 C.F.R. Part 708

<sup>4</sup> FAR subpart 3.9; DEAR 952.222-70 (Apr 1999).

## **Path Forward**

Although the Department has undertaken a broad array of activities to improve its safety culture, at Hanford and throughout the entire DOE complex, there is still work to be done. Safety culture is a continuum, and we continue to move along this continuum as we strive to improve. Several actions in response to the Board's recommendation, such as developing a consolidated report on the results of Department-wide extent of condition reviews, are still under way. We continue to make progress, and we value the feedback we have received from the Board as we have worked to execute the implementation plan in response to its Recommendation 2011-1.<sup>5</sup>

We recognize that this is an ongoing process -- a journey, not a destination -- and one which calls for continuous improvement. A safety culture built on these principles requires sustained effort by the Department's leadership and senior managers. The Department remains committed to this effort. Madam Chairman, this completes my prepared statement. I would be happy to answer your questions at this time.

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<sup>5</sup> Letter from Peter Winokur to the Honorable Ronald R. Wyden (April 1, 2013).