

SUBJECT: DEPARTMENT OF ENERGY EMPLOYEE CONCERNS PROGRAM

1. PURPOSE. The purpose of this Order is to establish the basic criteria and processes to maintain a consistent Employee Concerns Program (ECP) across the Department of Energy (DOE), including the National Nuclear Security Administration (NNSA), that: (1) encourages the free and open expression of employee concerns; and (2) provides DOE/NNSA federal, contractor, and sub-contractor employees with an independent avenue to raise any employee concern as defined in this Order, and (3) supports a strong safety culture where employee concerns can be raised without fear of retaliation.

Use of the ECP does not forestall established timeframes, nor does it constitute legal notice to DOE/NNSA, for other established processes. Finally, use of the ECP does not relieve employees of their responsibility to independently report fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement to the DOE Office of Inspector General.

2. CANCELLATIONS. DOE O 442.1A, Department of Energy Employee Concerns Program, dated 6-6-01.

Cancellation of a directive DOE does not, by itself, modify or otherwise affect any contractual obligation to comply with the Order. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.

3. APPLICABILITY.

- a. Departmental Applicability.

- (1) Except for the exclusions in paragraph 3.c., this Order applies to all DOE/NNSA elements, including those elements created after the Order is issued.
- (2) The Administrator of the NNSA must assure that NNSA employees comply with their responsibilities under this directive. Nothing in this directive will be construed to interfere with the NNSA Administrator's authority under Section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

- b. DOE Contractors.

- (1) Except for the exclusions in paragraph 3.c., the CRD, Attachment 1, sets forth the requirements of this Order that will apply to contracts that

include the CRD. The CRD, Attachment 1, must be included in all contracts that contain Department of Energy Acquisition Regulation (DEAR) clause 970.5204-2, *Laws, Regulations, and DOE Directives*.

c. Equivalencies/Exemptions.

- (1) Equivalency. In accordance with the responsibilities and authorities assigned by Executive Order 12344, *Navel Nuclear Propulsion Program*, codified at 50 U.S.C. Section 2406 and 2511, and to ensure consistency through the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors will implement and oversee requirements and practices pertaining to this Order for activities under his/her cognizance, as deemed appropriate.
- (2) Exemption. Consistent with Secretarial Delegation Order Number 00-033.00B to the Administrator and Chief Executive Officer of Bonneville Power Administration (BPA), this Order does not apply to BPA.

4. REQUIREMENTS.

- a. DOE Employee Concerns Programs. The Employee Concerns Program Director (ECP Director) and each DOE Site Office must establish an Employee Concerns Program. Headquarters Program Secretarial Officers/Deputy Administrators may choose to establish their own ECP for their Headquarters employees per Paragraph 5.(e)(2). A site office's ECP Manager (ECP Manager) must report directly to the Site Office Manager or to a senior executive designated by the Site Office Manager. The ECP Manager must have a reporting relationship that provides for adequate independence and direct access to the Site Office Manager or senior executive designee (or, in the case of NNSA, the ECP Manager must have unfettered access to the NNSA Principal Deputy Administrator).
- b. Notification Requirements. ECP Managers must immediately report to the cognizant manager responsible for the activity and/or the applicable support office (e.g., safety or security) for the site or facility, any employee concern that is associated with imminent danger to an individual's safety, public health or safety, and/or the environment, or that could compromise the safety and/or security of DOE operations and/or facilities.
- c. Communications to Employees. ECP Managers must inform federal and contractor employees, respectively, of the following:
 - (1) the availability of the ECP as an avenue for filing an employee concern;
 - (2) contact information for the ECP Manager, including where an individual may submit an employee concern confidentially or anonymously; and

- (3) that they are encouraged to first seek resolution with first-line supervisors or through existing complaint or dispute resolution systems, but that they also have the right to report an employee concerns through the ECP.
 - d. Agency-wide Database and ECP Data. Information regarding employee concerns must be maintained in the ECP Agency-wide Database, a system for tracking and trending the types and numbers of concerns (but not containing personally identifiable information) being processed across the complex.
 - e. Program Descriptions/Implementing Documentation. ECP Managers must establish program descriptions and/or implementing documentation that describe the methods and processes to be used to implement ECP procedures as further described in Attachment 2.
5. RESPONSIBILITIES.
- a. Deputy Secretary.
 - (1) Provide annual notice of the availability of the ECP and encourage its use where appropriate.
 - (2) Protect employees from reprisal or retaliation for reporting employee concerns.
 - b. Under Secretary for Management and Performance.
 - (1) Establish and maintain the ECP Director's position within the Office of the Associate Under Secretary for Environment, Health, Safety and Security.
 - (2) Support implementation of the ECP Director's responsibilities as described in Paragraph 5.d.
 - c. Associate Under Secretary for Environment, Health, Safety and Security.
 - (1) Manage and provide resources for the implementation of the Employee Concerns Program Director's responsibilities as described in Paragraph 5.d.
 - d. ECP Director.
 - (1) Serves as ECP Manager for those DOE Headquarters employees not otherwise covered by another Headquarters ECP established per Paragraph 5.(e)(2).
 - (2) Develops, promulgates, and maintains ECP directives.

- (3) Provides guidance and assistance to DOE and contractor organizations in effectively implementing ECP directives and policies.
- (4) Decides, based on the procedures described in Attachment 2, which concerns will be processed by the Headquarters ECP, which warrant referral or transfer to another office for review, or which warrant no further action.
- (5) Brief the Deputy Secretary, the Under Secretary for Management and Performance; the Associate Under Secretary for Environment, Safety Health and Security, Program Secretarial Officers, Site Office Managers; and provide information to employees on program trends, lessons learned and the effectiveness of ECP implementation.
- (6) Conduct site assist visits to DOE and contractor organizations to help ECP Managers implement ECPs in accordance with this Order and share best practices.
- (7) Develop and maintain the DOE Agency-wide Database for use by DOE federal and contractor ECP Managers and for use by the ECP Director in implementing the activities described in Paragraph 5.d.(5).
- (8) Establish training curriculum for field site ECP Managers and ECP staff, as well as subject matter experts who may support the ECP.

e. Program Secretarial Officers.

- (1) Support employees' rights to raise employee concerns to the ECP without fear of reprisal.
- (2) For Headquarters employees:
 - (a) Establish, delegate responsibilities, and provide resources for an ECP Manager, or
 - (b) Direct employees with employee concerns to the ECP Director and establish an ECP Point-of-Contact to facilitate communications with the ECP Director and ECP Managers at Site Offices under their purview.
- (3) Provide resources for implementation of an ECP covering all employees under their purview, including those at all Site Offices under their purview.
- (4) As requested, assist the ECP Director and ECP Managers under their purview with bringing employee concerns to closure.

f. Site Office Managers.

- (1) Support employees' right to raise employee concerns to the ECP without fear of reprisal.
- (2) Designate the management position or positions responsible for developing and implementing the ECP.
- (3) As directed by the cognizant Program Secretarial Officer, provide adequate support and resources to site ECP Managers for effective implementation of the site's ECP. In addition, provide appropriate resources and support such that ECP Managers and other ECP personnel are sufficiently trained in ECP policies, procedures, processes, and practices.
- (4) Verify that the cognizant contracting officer incorporates the CRD into contracts to which the CRD applies.
- (5) Use ECP self-assessment results to evaluate the effectiveness of the ECP and the processes used to implement this Order. Implement improvement actions, when necessary, to address issues impacting the effectiveness of the ECP.
- (6) Process employee concerns that are referred or transferred to their respective organizations consistent with this Order.
- (7) Implement corrective actions identified as part of the closure of an employee concern by the site's ECP Manager.

g. ECP Managers.

- (1) Develop the ECP implementation documentation (Program Description Plan, Attachment 2), identify roles and responsibilities of their respective ECP, as well as responsibilities of ECP personnel, consistent with this Order. Submit the ECP program implementation documentation to the appropriate Program Secretarial Officer or Site Office Manager for approval.
- (2) Implement the approved site/element ECP.
- (3) Publicize ECP processes, information on how/where to raise employee concerns and information on employee rights and responsibilities to report employee concerns (Attachment 2).
- (4) Interface with other organizations, both internal and external to DOE, as necessary, to evaluate employee concerns in an independent and objective manner.

- (5) Maintain ECP case file information and other relevant records. Enter information into the ECP Agency-wide Database when it is available as the employee concern is processed and complete all required information fields in the Agency-wide Database for each employee concern. Consistent with the Privacy Act of 1974, documents that are required to be disclosed may be subject to redaction to protect the identities of the individual(s) who identified the concern, any individual(s) who the concern is about, and/or information that may compromise the identity of individuals interviewed or named by interviewees in connection with the fact-finding investigation.
- (6) Prior to the implementation of the ECP Agency-wide Database, maintain sufficient records to track the following information: employee concerns activity levels; categories of employee concerns; dispositions of employee concerns; timeframes for resolving employee concerns; and other measures that may be required by the ECP Director.
- (7) Prepare ECP quarterly and annual reports for their respective ECPs and review them with appropriate Program Secretarial Officer and Site Office management officials for lessons learned and possible adverse trends. Submit quarterly and annual reports to the ECP Director.
- (8) Review annual self-assessments of their respective ECP with appropriate Program Secretarial Officer and Site Office management officials. Provide a copy of the annual self-assessment to the ECP Director.
- (9) Provide information and assistance to the cognizant senior executive and/or management in addressing issues identified through the ECP.
- (10) Inform appropriate levels of management when actions are either ineffective or not timely in resolving employee concerns or correcting identified issues.
- (11) Coordinate with Contracting Officers to determine the existence of contract requirements for the establishment of contractor ECPs and the means and criteria by which such contractor ECPs will be evaluated.
- (12) Conduct assessments, which may include the evaluation of the potential for a chilled work environment assessments, of respective federal site/element and contractor organizations, as appropriate, in support of a positive safety culture and a safety conscious work environment.
- (13) Provide oversight of DOE Contractor ECPs, in accordance with DOE O 226.1B, *Implementation of Department of Energy Oversight Policy*, including but not limited to:

- (a) Reviewing initial and/or revised contractor ECP program descriptions and/or implementing documents or revisions. Within 30 days of the contractor's submittal of such documentation, provide to the Contracting Officer a recommendation for approval or identification of improvements needed to appropriately align it with the ECP elements described in Attachment 2.
 - (b) Performing a compliance and performance-based assessment of each contractor ECP within one year of program plan approval, and at least once every three years thereafter.
 - (c) Performing other assessments and/or oversight activities, as deemed necessary.
 - (14) Refer or transfer, after informing the concerned individual (CI), employee concerns raised by CIs from contractors covered by Attachment 1, to the contractor ECP Manager for actions such as:
 - (a) Resolution of the employee concern is solely within the purview of the contractor; or
 - (b) Upon review of the contractor CI's case file, conducted at the CI's request, the ECP expectations established in Attachment 2 are found not to have been met.
 - (c) The CI was not aware of the availability of a contractor ECP.
- h. Office of Enterprise Assessments (EA).
 - (1) Act as DOE's independent oversight organization responsible for aspects relative to public and worker health, safety, security, and environmental protection.
 - (2) Provide technical assistance to DOE organizations in investigations of health, safety, and security concerns.
 - (3) Independently assess the overall effectiveness of ECPs and the processes used to implement this Order, as necessary.
 - (4) When an employee concern is raised to EA management or staff, advise the employee on alternate avenues for raising employee concerns, including the ECP.
 - (5) Interface with the ECP Director and ECP Managers regarding site ECP implementation, as well as programmatic implementation impacts.
- i. Chief Human Capital Officer and Field Site Human Resource Managers.

- (1) Interface with and assist the ECP Director and/or ECP Managers in addressing employee concerns raised through the ECP.

j. Contracting Officers.

- (1) Incorporate the ECP CRD into all contracts for the management and operation of DOE-owned or DOE-leased facilities (*i.e.*, those contracts that contain DEAR clause 970.5204-2, *Laws, Regulations, and DOE Directives.*)
- (2) Coordinate with the site's ECP Manager in accordance with Paragraph 5.g.12 prior to the approval of a contractor's Program Description/Implementation Documentation
- (3) Interface with and assist the Employee Concerns Director and/or ECP Managers in addressing employee concerns raised by contractor employees through the ECP, as necessary.
- (4) Assist the ECP Director and/or ECP Managers with oversight activities of contractor ECPs, as necessary.

k. Managers and Supervisors.

- (1) Respond to concerns raised by employees in a prompt, effective, and respectful manner to provide for the safe and efficient operation of programs under their authority.
- (2) Process employee concerns that are referred or transferred to their respective organizations consistent with this Order.
- (3) Implement effective and timely corrective actions in response to the issues identified by the ECP Manager, and initiate actions to prevent their recurrence.

l. Employees.

- (1) Report any employee concern related, but not limited, to the environment, safety, health, security, quality, and management and/or operations of DOE facilities, as well as Harassment, Intimidation, Retaliation, and/or Discrimination (HIRD).
- (2) Attempt to resolve employee concerns at the lowest level possible.
- (3) Have the right, without fear of reprisal, to report employee concerns to the ECP at any time.

6. REFERENCES.

- a. DOE Policy 226.1B, *Department of Energy Oversight Policy*, dated 4-25-11.
- b. DOE O 226.1B, *Implementation of Department of Energy Oversight Policy*, dated 4-25-11.
- c. Secretary of Energy Memorandum, *Employee Concerns Program Statement*, dated 10-05-14.
- d. 10 Code of Federal Regulations (C.F.R.) Part 851, Worker Safety and Health Program.
- e. DOE O 440.1B, *Worker Protection Program for DOE (including the National Nuclear Security Administration) Federal Employees*, dated 5-17-07.
- f. 10 C.F.R. Part 708, DOE Contractor Employee Protection Program.
- g. DOE O 442.2, *Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns*, dated 7-29-11.
- h. 29 C.F.R. Part 1960, Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters, including 29 C.F.R. Section 1960.28, Employee Reports of Unsafe or Unhealthful Working Conditions.
- i. 29 C.F.R. Part 24, Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, as amended.
- j. Price-Anderson Amendments Act of 1988, P.L. No. 100-408, as amended.
- k. 10 C.F.R. Part 820, Procedural Rules for DOE Nuclear Activities.
- l. National Defense Authorization Act for Fiscal Year 2000, P.L. No. 106-65 (Title XXXII), as amended.
- m. Executive Order 12344, Naval Nuclear Propulsion Program, is an integrated program carried out by the Department of Energy and the Department of Navy.
- n. DOE O 221.1A, *Reporting Fraud, Waste and Abuse to the Office of Inspector General*, dated 4-19-08.
- o. Department of Energy Statement of Policy on Alternative Dispute Resolution, 73 Fed. Reg. 63,458 (Oct. 24, 2008).
- p. Privacy Act of 1974, P.L. No. 93-579, 5 U.S.C. Section 552a, as amended.

- q. Freedom of Information Act of 1974, P.L. No.93-502, 5 U.S.C. Section 552, as amended.

7. DEFINITIONS.

- a. Alternative Dispute Resolution (ADR). A process for resolving a dispute through the use of a neutral third party. ADR may take the form of mediation or other techniques. In order to attempt to resolve an employee concern through ADR, all parties must voluntarily agree to utilize the ADR process.
- b. Anonymous Employee Concern. An employee concern submitted by a concerned individual who does not reveal his/her identity.
- c. Assessment. A planned and documented activity performed to determine the adequacy of and compliance with established policies, procedures, and other applicable documents and the effectiveness of their implementation.
- d. Assurance Systems. Systems that encompass all aspects of the processes and activities designed to identify deficiencies and opportunities for improvement, report deficiencies to the responsible managers, complete corrective actions, and share in lessons learned effectively across all aspects of operations.
- e. Chilled Work Environment. A work environment where employees are unwilling and/or unable to raise employee concerns because they fear retaliation/reprisal.
- f. Concerned Individual (CI). A person expressing an employee concern through the ECP. A CI may include a current or former employee of DOE or a current or former DOE/NNSA contractor or subcontractor on a DOE project.
- g. Confidential Concern. An employee concern submitted by a concerned individual who wishes to have his or her identity protected, to the extent allowable by law, from all persons except the ECP staff and those other individuals supporting ECP that may have a need to know.
- h. Conflict of Interest. A situation in which the individual responsible for investigating an employee concern could be associated, either directly or indirectly, with the employee concern, including situations where the individual with investigatory responsibility has a prior personal relationship related to the parties to the employee concern, or the employee concern itself, that may place his or her objectivity in question to an outside observer.
- i. Corrective Action. An action taken to effectively address a substantiated employee concern and/or identified deficiency and prevent the recurrence of the issue(s) that led to the filing of the employee concern.
- j. Days. Days are calendar days unless specified otherwise.

- k. Differing Professional Opinion. An opinion involving a technical issue related to environment, safety and health that: (1) differs from previous management decisions, stated positions, or established policies or practices; (2) in the opinion of the employee, has not been adequately considered; and (3) if not addressed, has a reasonable probability of having significant negative impact with respect to the environment, safety, or health.
- l. Discrimination. The act of treating an employee differently from other employees because he/she raised an employee concern or engaged in protected activity.
- m. Duty-to-Act. The responsibility to report to line management a condition that puts at risk the health, safety and/or security of workers, DOE programs or missions, the environment, or the general public.
- n. ECP Director. The individual in the Office of Environment, Health, Safety and Security who serves as (1) the point of contact for this Order, and (2) the ECP Manager for those DOE Headquarters employees whose office does not otherwise have an ECP Manager.
- o. ECP Manager. The individual selected by a Program Secretarial Officer to lead the ECP for the organization's Headquarters employees or the individual selected by the Site Office Manager to lead a site's ECP. As stated in the definition of the ECP Director, the ECP Director is the ECP Manager for specified DOE Headquarters employees.
- p. Employee Concern. An expression by a concerned individual that (1) an activity, policy, or practice of DOE or one of its contractors or subcontractors, including but not limited, to the environment, safety, health, security, quality, and management of DOE facilities and/or operations, should be improved, modified, or terminated, or (2) he or she has been subjected to HIRD by DOE or one of its contractors or subcontractors.
- q. Harassment. A behavior or an action taken by supervisors or co-workers against or toward an employee to belittle, humiliate, or impede that employee in his or her work environment or job performance because the employee raised an employee concern or engaged in protected activity. Harassment may include, but is not limited to, threatening, restraining, coercing, blacklisting, mocking, humiliating, and/or isolating an employee.
- r. Harassment, Intimidation, Retaliation, and/or Discrimination (HIRD). A type of employee concern that includes allegations of harassment, intimidation, retaliation, and/or discrimination.
- s. Intimidation. A behavior or an action taken by a supervisor or co-worker against or toward any employee to cause the employee to: be fearful of filing an employee concern or engaging in protected activity; cease from pursuing an employee concern or from engaging in protected activity; or otherwise be afraid

for his/her safety or job security as a result filing an employee concern or engaging in protected activity.

- t. Protected Activity. Engaging in an activity or exercising a right that is protected by law, regulation, and/or rule.
 - u. Referral of an Employee Concern. The referral of an employee concern to another office or program or subject matter expert for evaluation.
 - v. Retaliation/Reprisal. An adverse action taken against or toward an employee with respect to employment because the employee raised an employee concern or engaged in protected activity.
 - w. Safety Conscious Work Environment (SCWE). A work environment in which employees feel free to raise safety concerns to management (and/or a regulator) without fear of retaliation.
 - x. Safety Culture. 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, the public, and the environment.
 - y. Substantiated. A type of finding with respect to an employee concern. An employee concern is substantiated when the ECP has corroborated the employee concern based on supporting evidence.
 - z. Transfer of an Employee Concern. The transfer of an employee concern to another organization when another resolution process exists to address the underlying issue(s) identified in the employee concern.
 - aa. Unsubstantiated. A type of finding with respect to an employee concern. An employee concern is unsubstantiated when the facts did not validate or support the employee concern raised.
8. CONTACT. Questions surrounding this order should be addressed to the ECP Director, Office of Environment, Health, Safety and Security, at 202-586-6642.

BY ORDER OF THE SECRETARY OF ENERGY

ELIZABETH SHERWOOD-RANDALL
Deputy Secretary

CONTRACTOR REQUIREMENTS DOCUMENT
DOE O 442.1B, *DEPARTMENT OF ENERGY EMPLOYEE CONCERNS PROGRAM*

This Contractor Requirements Document (CRD) establishes the requirements for Department of Energy (DOE) and National Nuclear Security Administration contractors whose contracts contain DEAR clause 970.5204-2 *Laws, Regulations, and DOE Directives* to establish and maintain an Employee Concerns Program (ECP).

To this end, the contractor must do the following:

1. Establish an ECP suitable for the organization to accept, process and resolve employee concerns which addresses the instructions in Attachment 2 and describes the manner in which the concerns of employees and subcontractor employees will be managed.
2. Submit an ECP Description/Implementation Document within a timeframe agreed to with the Contracting Officer by (1) the effective date of this CRD, for existing contracts to which this CRD applies; or (2) the effective date of a new contract to which this CRD applies, for review and approval by the Contracting Officer.
3. Implement the approved ECP Description/Implementation Document. Any revisions to the ECP Description/Implementation Document must be reviewed and approved by the Contracting Officer prior to implementation.
4. Cooperate with and assist the site's ECP Manager in the processing of employee concerns. This includes, but is not limited to, cooperation with ECP Manager and his/her representatives in making available both employees and pertinent evidence (including documentation).
5. Provide means for contractor and subcontractor employees to know they have the right and responsibility to raise any employee concern related, but not limited to the environment, safety, health, security, quality, and management of DOE facilities and/or operations, as well as Harassment, Intimidation, Retaliation, and/or Discrimination (HIRD) to the contractor's ECP or the DOE ECP.
6. Notify the DOE ECP Manager when the Contractor ECP Manager becomes aware that a contractor employee has filed a formal complaint of retaliation under 10 Code of Federal Regulations (C.F.R.) 708, *Contractor Employee Protection Program*, with the U.S. Department of Labor, under 29 C.F.R. Part 24, *Procedures for Handling Retaliation Complaints*, a state agency, or any other non-DOE entity.
7. Populate the ECP Department-wide database per DOE requirements.

ATTACHMENT 2

PROGRAM DESCRIPTION/IMPLEMENTING DOCUMENTATION DETAILED INSTRUCTIONS

1. Employee Concerns Program (ECP) Processing
 - a. ECP Documentation and Records. The ECP Manager maintains and documents employee concerns in an ECP case file (hard copy or electronic) that supports the conclusions reached and is retained consistent with applicable laws, regulations, and requirements.
 - b. Anonymity and Confidentiality.
 - (1) Anonymity: A concerned individual (CI) may submit an employee concern without revealing his/her identity. When a CI submits an employee concern without revealing his/her identity, the employee concern is referred to as an anonymous employee concern.
 - (2) Confidentiality: Confidentiality is the cornerstone of an effective ECP. Situations exist in which concerned employees may fear retaliation or intimidation by supervisors or co-workers if they provide information to the ECP. Recognizing that some individuals will raise employee concerns only if they believe their identities will not be disclosed, the protection of the identity of these individuals is a significant factor in ensuring the voluntary flow of information.

If a CI or a witness requests confidentiality, the ECP Manager maintains confidentiality to the greatest extent possible. The ECP Manager informs the CI of the limitations on protection confidentiality under circumstances such as:

 - (a) The existence of a duty-to-act situation;
 - (b) Disclosure or reporting required by law, rule, or regulation;
 - (c) The extent to which a particular employee may be identified with the employee concern (*e.g.*, the employee has previously voiced the employee concern, in whole or part, to a supervisor or co-workers; uniqueness of the employee concern); and
 - (d) The extent to which confidentiality may impact the ECP Manager's ability to thoroughly investigate an employee concern.
 - c. Intake, Processing of Employee Concerns, and Documentation.

- (1) Intake of Employee Concerns. When a CI initiates an employee concern, the ECP Manager performs an intake with the CI, if the identity of the CI is known, to clearly understand and document the employee concern.
 - (2) Processing of Employee Concerns. The ECP Manager informs the CI about the ECP process and may discuss other avenues of redress that may be available to the CI to resolve an employee concern.
 - (3) Employee Concern Documentation. The ECP Manager documents an employee concern from the CI's perspective in sufficient detail to permit processing. The ECP Manager maintains any supporting documentation and/or evidence provided by the CI or obtained or prepared by the ECP Manager in the CI's ECP case file.
- d. Triage of Employee Concerns. When an employee concern is received, the ECP Manager performs an initial screening of the employee concern to evaluate whether it generates a reporting requirement and/or a duty-to-act. The ECP Manager notifies the CI, if the identity of the CI is known, of a reporting requirement or duty-to-act situation.

The intent of the triage process is to provide a consistent method by which each employee concern is reviewed, evaluated, and a path for resolution is identified. The triage is performed in a time period consistent with the nature and severity of the employee concern. During the triage process, the ECP Manager:

- (1) Identifies any required notifications to other organizations;
- (2) Categorizes the type of employee concern (*e.g.*, environmental, safety, health, security, fraud, waste, abuse, quality, management, workplace violence, Harassment, Intimidation, Retaliation and/or Discrimination (HIRD));
- (3) Identifies any potential or perceived conflicts of interest in the processing of the employee concern. In the event such conflicts are identified, mitigation measures are documented.
- (4) Identifies the method by which to disposition the employee concern (*e.g.*, investigation, informal resolution, ADR, referral, transfer) consistent with Paragraph A.6 of this Attachment.

If the ECP Manager determines there is a reporting requirement and/or a duty-to-act, the notification and any other appropriate action must be taken expeditiously. When the ECP Manager suspends the processing of an employee concern until after such notification or other action, the ECP Manager resumes the process of the employee concern in a timely manner.

- e. Timeframes for Closing Employee Concerns. The goal of the ECP is to close employee concerns within 90 days from date of receipt of the employee concern. The ECP Manager may establish more stringent timeframes for various categories/types of employee concern.
- f. Methods for Processing Employee Concerns.
 - (1) Investigations. The ECP Manager may initiate an investigation for the purpose of examining an employee concern. The investigation may be conducted by or on behalf of the ECP (*e.g.*, subject matter expert). ECP investigations obtain sufficient facts to allow the ECP Manager to determine if the employee concern is substantiated or unsubstantiated.
 - (2) Informal Resolution. The ECP Manager may use informal and/or expedited techniques to address an employee concern, when appropriate.
 - (3) Alternative Dispute Resolution (ADR). ADR may be used as a mechanism for resolving an employee concern. ADR involves the use of a neutral third party and may take the form of mediation or other techniques. In order to attempt to resolve an employee concern through ADR, all parties voluntarily agree to utilize the ADR process.
 - (4) Referral to Another Organization. The ECP Manager may refer an employee concern in writing to another office or program for evaluation. If an employee concern is referred to another organization, the ECP Manager informs the CI of the referral, if the identity of the CI is known. Upon accepting it, the receiving office investigates the employee concern and documents its findings to the ECP Manager. The ECP Manager evaluates the response to verify it addresses the employee concern. The ECP Manager retains the right to further investigate the employee concern, if the response does not fully address the employee concern. The ECP Manager communicates the results to the CI, if the identity of the CI is known.
 - (5) Transfer to Another Organization. The ECP Manager may transfer an employee concern in writing to another organization when another resolution process exists to address the employee concern raised (*e.g.*, the Differing Professional Opinions process established under DOE O 442.2, *Differing Professional Opinions for Technical Issues Involving Environment, Safety and Health Technical Concerns*, Equal Employment Opportunity Office, Ombudsman). If an employee concern is transferred to another organization, the ECP Manager informs the CI of the transfer, if the identity of the CI is known. The office that receives the transfer accepts responsibility and jurisdiction for the employee concern, addresses the employee concern, and is responsible for communicating the results to the CI, if the identity of the CI is known. Once transferred, the ECP has no further responsibility to the CI regarding the employee concern.

- (6) Dismissal of an Employee Concern. The ECP Manager may dismiss an employee concern unless the employee concern places the ECP in a duty-to-act situation. Upon the written request from the CI, the ECP Manager may withdraw an employee concern. The ECP Manager may also dismiss an employee concern on his/her own initiative, when appropriate (*e.g.*, when the employee concern is outside the scope of the ECP, and direct transfer to another organization is not appropriate; when the ECP determines that the employee concern is too general to investigate).
- g. Closure of Employee Concerns. An employee concern must be tracked until closure. An employee concern is considered closed when either:
 - (1) The CI has withdrawn the employee concern in writing, and the nature of the employee concern does not require further evaluation or action; or
 - (2) The employee concern has been transferred to another organization; or
 - (3) The employee concern has been investigated and/or otherwise addressed, and the following steps have been taken:
 - (a) The ECP has briefed management on any issues for management attention;
 - (b) A written investigative report is prepared when needed, as determined by the ECP Manager;
 - (c) Any corrective actions are identified and are captured in a tracking system (with the ability to track actions to completion) by the responsible line manager and their status can be reported to the ECP Manager when requested; and
 - (d) The CI, if the CI's identity is known, has been provided notification of the employee concern disposition (*i.e.*, whether the employee concern was substantiated or unsubstantiated), any deficiencies identified by the ECP Manager, and documentation that management has accepted responsibility to address any deficiencies. Notification can include information associated with the thoroughness, impartiality, and objective nature of the investigation. To protect the confidentiality of those who provided testimony or other input to investigation, in the closure summary provided to the CI, the specifics of the investigation will not be provided.

2. Program Implementation

In addition, the Program Description/Implementing Documentation will specify:

- a. Organization/Structure/Interface: The process that will be used to demonstrate that the ECP is not only processing the concern in an independent and objective manner, but also coordinating with appropriate organizations in the resolution of employee concerns. This includes a description of:
 - (1) The manner in which the ECP Manager is independent from line management;
 - (2) The manner in which the ECP Manager will have direct access to the head of the organization; and
 - (3) The manner in which the ECP will interface with legal counsel, line management, and support organizations (*e.g.*, human resources, environmental, safety and health, quality, EEO) to evaluate employee concerns in an independent and objective manner;
- b. Self-Assessment and Oversight: The manner in which the ECP Manager will conduct a compliance and performance-based self-assessment of its program within one year of program approval and then at least biennially afterwards. Problems that hinder the ECP from achieving its objectives must be identified and corrected.
- c. Promoting Awareness of the ECP: The process by which ECP managers will promote the free and open expression of employee concerns by contractor employees, including awareness of the Federal site ECP.
 - (1) New Employees: Employees are notified of the ECP upon hire
 - (2) Existing Employees. Employees are periodically notified of the availability of the ECP, including how and where employee concerns can be raised (*e.g.*, website, brochures, posters; emails).
- d. Training and Qualification. Personnel responsible for implementing the ECP or investigating employee concerns are sufficiently trained on a regular basis to properly carry out their responsibilities.