



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 20, 1996

70-3091

MEMORANDUM TO: Josephine M. Piccone, Chief
Operations Branch
Division of Industrial and Medical Nuclear Safety

FROM: Robert C. Pierson, Chief
Special Projects Branch
Division of Fuel Cycle Safety and Safeguards

SUBJECT: TECHNICAL ASSISTANCE REQUEST - REVIEW OF DOE HANFORD TANK
WASTE REMEDIATION SYSTEM (TWRS) REVIEW GUIDANCE FOR EMPLOYEE
CONCERNS MANAGEMENT SYSTEM

The Special Projects Branch requests technical assistance in reviewing the following project:

Project: Guidance document for the Review of the TWRS Privatization Contractor Employee Concerns Management System, dated October 1996.

Casework/RITS/TAC Nos: 70-3091020S/214A/L32008

Requested Action: The above referenced document is to be used by the Regulatory Unit at the DOE Hanford Site to guide the review by the DOE staff of Employee Concerns Management Systems that will be described in documents submitted to the Regulatory Unit by DOE contractors who are working under a privatization program being managed by DOE Hanford. The document will be used to determine the adequacy and basis for the approval by the DOE Hanford Regulatory Unit of the contractors' employee concerns programs (ECP). Since the goal of the NRC involvement in this project is the eventual transition to a condition whereby the DOE contractors become NRC licensees, the review should be conducted as if the review document was to be used by NRC staff to evaluate the employee concerns program of an NRC licensee. The requested target date for completion is January 10, 1997. Comments should be directly identified with the paragraph identifiers used in the document and should identify the issue and identify the basis for the issue; e.g., refer back to an NRC requirement or guidance document. A conclusion should be provided as to whether the guidance would be adequate for conducting an NRC review and evaluation of a licensee's ECP. The format used may list comments by paragraph identifier. A copy of the document has been previously provided to Bob O'Connell.

Please provide the information requested below and return a completed copy to the Licensing Assistant (LA) or Project Manager (PM).

Name of Reviewer: _____

INMS's Projected Completion Date: _____

IMOB Branch Chief Signature: _____

Contacts: PM: Robert E. Shewmaker, 415-6713
LA: D. Amy Hoadley, 415-8129

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J. M. Piccone

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The above TAC No. should be referenced in future correspondence related to this request and on the RITS Report for recording staff time expended on this effort.

Docket 70-3091

Attachment: Guidance for Review of TWRS Privatization Contractor Employee Concerns Management System, October 1996

Docket 70-3091

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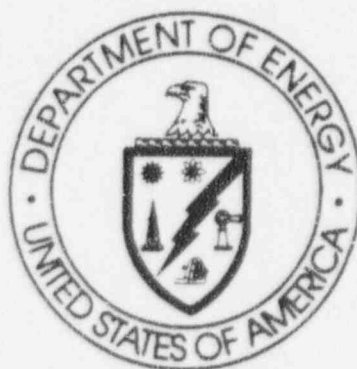
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Guidance for Review of TWRS Privatization Contractor Employee Concerns Management System



October 1996

Office of Radiological, Nuclear, and Process
Safety Regulation for TWRS Privatization Contractors

Richland Operations Office
PO Box 550
Richland, WA 99352

9611130083 OFP

PREFACE

The Department of Energy's (DOE) Richland Operations Office (RL) issued the *TWRS Privatization Request for Proposal (RFP)* for Hanford Tank Waste Remediation System (TWRS) Privatization in February 1996. Offerors were requested to submit proposals for the initial processing of the tank waste at Hanford. Some of this radioactive waste has been stored in large underground storage tanks at the Hanford Site since 1944. Currently, approximately 56 million gallons of waste containing approximately 240,000 metric tons of processed chemicals and 250 mega-curies of radionuclides are being stored in 177 tanks. These caustic wastes are in the form of liquids, slurries, saltcakes, and sludges. The wastes stored in the tanks are defined as high-level radioactive waste (10 CFR Part 50, Appendix F) and hazardous waste (Resource Conservation and Recovery Act).

Under the privatization concept, DOE will purchase waste treatment services from a contractor-owned, contractor-operated facility under a fixed-price contract. DOE will provide the waste feedstock to be processed but maintain ownership of the waste. The contractor must: a) provide private financing; b) design the equipment and facility; c) apply for and receive required permits and licenses; d) construct the facility and bring it on-line; e) operate the facility to treat the waste according to DOE specifications; and f) deactivate the facility.

The TWRS Privatization Program is divided into two phases, Phase I and Phase II. Phase I is a proof-of-concept/commercial demonstration-scale effort the objectives of which are to a) demonstrate the technical and business viability of using privatized contractors to treat Hanford tank waste; b) define and maintain adequate levels of radiological, nuclear, process, and occupational safety; c) maintain environmental protection and compliance; and d) substantially reduce life-cycle costs and time required to treat the tank waste. The Phase I effort consists of two parts: Part A and Part B.

Part A consists of a twenty-month development period to establish appropriate and necessary technical, operational, regulatory, business, and financial elements. This will include identification by the TWRS Privatization Contractors and approval by DOE of appropriate safety standards, formulation by the Contractors and approval by DOE of integrated safety management plans, and preparation by the Contractors and evaluation by DOE of initial safety assessments. Of the twenty-month period, sixteen months will be used by the Contractors to develop the Part-A products and four months will be used by DOE to evaluate the products.

Part B consists of a demonstration period to provide tank waste treatment services by one or more of the TWRS Privatization Contractors who successfully complete Part A. Demonstration will address a range of wastes representative of those in the Hanford tanks. Part B will be 10 to 14 years in duration. Within Part B, wastes will be processed during a 5- to 9-year period and will result in treatment of 6 to 13 percent of the Hanford tank waste.

Phase II will be a full-scale production phase in which the remaining tank waste will be processed on a schedule that will accomplish removal from all single-shelled tanks by the year 2018. The objectives of Phase II are to a) implement the lessons learned from Phase I; and b) process all tank waste into forms suitable for final disposal.

A key element of the TWRS Privatization Contracts is DOE regulation of radiological, nuclear, and process safety through the establishment of a specifically chartered, dedicated Regulatory Unit (RU) at RL. This regulation by the RU is authorized by the document entitled *Policy for Radiological, Nuclear, and Process Safety Regulation of TWRS Privatization Contractors* (referred to

as the Policy) and implemented through the document entitled *Memorandum of Agreement for the Execution of Radiological, Nuclear, and Process Safety Regulation of the TWRS Privatization Contractors* (referred to as the MOA). The Policy is signed by the Under Secretary of Energy; the Manager, RL; the Assistant Secretary for Environment, Safety and Health (ASEH); and the Assistant Secretary for Environmental Management (ASEM). The MOA is signed by the Manager, RL; the ASEH; and the ASEM. The nature and characteristics of this regulation are also specified in these documents. The MOA details certain interactions among RL, the ASEH, and the ASEM as well as their respective roles and responsibilities for implementation of this regulation.

The authority of the RU to regulate the TWRS Privatization Contractors is derived solely from the terms of the TWRS Privatization Contracts. Its authority to regulate the Contractors on behalf of DOE is derived from the Policy. The nature and scope of this special regulation (in the sense that it is based on terms of a contract rather than formal regulations) is delineated in the MOA, the TWRS Privatization Contracts, and the four documents (listed below), which are incorporated into the Contracts. This special regulation by the RU in no way replaces any legally established external regulatory authority to regulate in accordance with their duly promulgated regulations nor relieves the Contractors from any obligations to comply with such regulations or to be subject to the enforcement practices contained therein.

The Policy, the MOA, the TWRS Privatization Contracts, and the four documents incorporated in the Contracts define the essential elements of the regulatory program, which will be executed by the RU and to which the TWRS Privatization Contractors must conform. The four documents incorporated in the Contracts (and also incorporated in the MOA) are

Concept of the DOE Regulatory Process for Radiological, Nuclear, and Process Safety for TWRS Privatization Contractors, DOE/RL-96-0005.

DOE Regulatory Process for Radiological, Nuclear, and Process Safety for TWRS Privatization Contractors, DOE/RL-96-0003.

Top-Level Radiological, Nuclear, and Process Safety Standards and Principles for TWRS Privatization Contractors, DOE/RL-96-0006, and

Process for Establishing a Set of Radiological, Nuclear, and Process Safety Standards and Requirements for TWRS Privatization, DOE/RL-96-0004.

In the execution of the regulatory program, the RU will consider not only the relevant approaches and practices of DOE but also those of the Nuclear Regulatory Commission (NRC). The Policy states that

"It is DOE's policy that TWRS privatized contractor activities be regulated in a manner that assures adequate radiological, nuclear, and process safety by application of regulatory concepts and principles consistent with those of the Nuclear Regulatory Commission."

To this end, the RU will interact with the NRC (under the provisions of a memorandum of understanding with the NRC) during development of regulatory guidance and during execution of the regulatory program to ensure implementation of this policy.

All documents issued by the Office of Radiological, Nuclear, and Process Safety Regulation for TWRS Privatization Contractors are available to the public through the DOE/RL Public Reading Room at the Washington State University, Tri-Cities Campus, 100 Sprout Road, Room 130 West, Richland, Washington.

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1.0 INTRODUCTION

The Department of Energy (DOE) promotes a culture of operation in which expression and timely resolution of employee Environment, Safety, & Health (ES&H) concerns occurs. Situations in which safety and health issues go unaddressed with the possible result of avoidable risks to workers, the public and the environment must be avoided. This expectation is reflected in the document *Top-Level Radiological, Nuclear, and Process Safety Standards and Principles for TWRS Privatization Contractors*, DOE/RL-96-0006 for the Tank Waste Remediation System (TWRS) Privatization Program. The principal objective of the Employee Concerns Program (ECP), required by the TWRS Privatization Contract, is to promote prompt identification and resolution of employee concerns without the need for sanctions to the Contractor or the employee. The alternative to an effective concerns management program can be legal proceedings or regulatory action.

2.0 BACKGROUND

2.1 Whistleblower Protection

Federal Law prohibits discrimination against those employees who raise safety concerns. Prohibited action by its contractors is acted upon by the DOE in several ways. This includes legal protection of employee rights, including directed restoration of employee privileges and benefits if denied by prohibited Contractor activity. For most regulated activities, the Department of Labor (DOL) is the agency which investigates these situations. Previous action under these laws represents a body of legal and administrative experience that establishes an accepted practice of protected activities.

In the Energy Policy Act of 1992, a new section on worker protection -- 211 to the Energy Reorganization Act of 1974 -- provides additional clarity on the description of covered employees and protected activities. DOE contractors, provided nuclear hazards indemnification under Part 170d of the Atomic Energy Act, are explicitly included. The TWRS Privatization Contracts include such indemnification.

Remedy for reprisal against protected employee actions occurring in Contractor-owned facilities is available under 29 CFR 24, administered by the DOL. The potential exists for Privatization Contractor actions to fall under 10 CFR 708, a similar regulation administered by the DOE if Government-owned nuclear facilities or equipment are involved. The expectation of DOE is that employees will usually seek redress by means of the DOL rules. Communication of DOE's expectations is addressed in the at-

tributes section of this guidance document. This document will help DOE reviewers to determine the adequacy and responsiveness of a Contractor's ECP.

The Office of Radiological, Nuclear, and Process Safety Regulation for TWRS Privatization Contractors, referred to herein as the Regulatory Unit (RU), does not investigate Whistleblower complaints for purposes of employee protection under the law. Complaints of prohibited Contractor activity will be referred to the DOL. However, the RU will act to ensure that potentially unsafe conditions are promptly investigated and remediated, if necessary, to restore adequate protection of workers, the public, and the environment.

2.2 Regulatory Enforcement and Oversight

In addition, the DOE (10 CFR 820) and the NRC (10 CFR 2 and 19) each provide for additional sanctions under their enforcement of nuclear safety rules and regulations if such employee discrimination is determined to result in a substantive diminishment of compliance, with nuclear safety requirements. NRC enforcement policy provides that the severity level assigned a violation for reprisal may be graded upward as the level of management involvement in the prohibited activity rises. This indicates the importance the NRC places upon maintaining an open environment for the expression of concerns within its licensees' organizations. The DOE is committed to a regulatory process consistent with NRC's principles and concepts.

As a matter of practice, both NRC and DOE encourage self-identification and resolution of safety concerns between employee and employer. Evidence of openness in the treatment of concerns about regulated activities is generally accepted as consistent with high levels of integrated safety management. In turn, this openness can result in reduced reliance upon enforcement action by the regulators to ensure adequate provision of safe facility operation. DOE policy regarding its commitment to effective treatment of employee concerns is found in DOE Order 5480.29. The DOE's approach to management of ES&H concerns encourages reporting and provides protection for employees who may fear reprisal for their actions or who have been unable to obtain satisfactory resolution of their concern directly from their employer.

2.3 Privatization Approach

The DOE Manager, Richland Operations Office (RL), has expressed by means of the Environment, Safety and Health Standard of the TWRS Privatization Contracts, a formal requirement that Contractors

develop their own ECP. DOE Order 5480.29 is referenced for development of this deliverable. The guidance document herein provides DOE reviewers with the key elements and expectations of an effective and acceptable ECP.

In the discharge of its responsibilities under DOE Order 5480.29, RL has instituted an Employee Concerns Management System that applies to its entire area of responsibility. The RU Employee Concerns Manager (ECM), designated for this program, will coordinate and oversee the activities of all Contractor-maintained ECPs. Routine reporting, identified by the Order, will be through this individual. This document establishes minimum expectations for the exchange of information between the Contractor's ECP Manager and the RU ECM. It is expected that Contractor employees will be appraised of the opportunity they have to raise concerns with the RU ECM as described in the attributes identified herein.

For the TWRS Privatization Contractor, the RU is the focal point for implementation of the ECP process. It is the expectation of the Director of the RU, the Regulatory Official (RO), that once the program is approved, it will be maintained under the RU docket for the Contract. Implementation of the ECP will receive routine oversight by the RU ECM. The RU will disposition concerns related to nuclear, radiological, and process safety and health. Environmental concerns will normally be communicated by RU to the lead regulator for environmental protection.

3.0 PURPOSE

This document sets forth the general basis that the RU will use to review the Contractor's ECP. It will be used by the RU to determine the adequacy and basis for approval by the RO of the Contractor's ECP.

4.0 STRUCTURE

This guidance document describes the requirements, key program elements, and attributes of an acceptable TWRS Privatization Contractor ECP that is consistent with the foregoing principles. RU reviewers of the Contractor's proposed ECP will confirm that the anticipated elements are present in the program. The information described herein suggests the acceptable characteristics and typical means to be employed to satisfy DOE expectations. Other means and methods may be suggested and will be evaluated by the RU. Approval of the Contractor's ECP by the RO will reflect confirmation that requirements are satisfied.

Section 5 of this document presents requirements invoked by the TWRS Privatization Contract, which

forms the basis for the RU perspective. In Section 6, the key elements of an acceptable ECP are described. Specific sources are identified to assist in understanding the reason for including that element. Attributes that further describe successful components of the key elements are also described in this section. Section 7 highlights general information that may further facilitate review of the Contractor's ECP.

5.0 EMPLOYEE CONCERNS PROGRAM REQUIREMENT

5.1 Requirement: Employee Concerns Management System

The following singular requirement exists: the Contractor shall prepare and submit to the DOE RU for review and approval a description of an Employee Concerns Management System (Table S4-1, Radiological, Nuclear, and Process Safety Deliverables for Part A and Part B).

5.2 Intent

The required deliverable communicates the importance DOE places upon the Contractor's establishing of an atmosphere of performance which encourages identification and disposition of employee concerns within its own management structures to the maximum extent practicable. This expectation applies to the standards identification activities and continues through each subsequent regulatory action covered by the Contract.

5.3 Attributes

Submittal of a Contractor-developed plan that describes an ECP acceptable to the RO completes this requirement. Attributes of an acceptable submittal are expected to reflect those common to previously accepted programs as described in the next section of this guidance document. No individual attribute is mandatory, but a submittal containing most of the key elements expressed in Section 6 should provide the reviewer with a persuasive basis for concluding that the Contractor is on record as encouraging the report of ES&H concerns and has provided for the timely, documented disposition of such concerns.

6.0 ATTRIBUTES FOR KEY PROGRAM ELEMENTS

The following key program elements have been identified based upon the characteristics found in acceptable, existing DOE Employee Concerns Management policy and practice.

6.1 Key Element 1 - Commitment to DOE Policy on Employee Concerns

6.1.1 Description

The Department, by means of regulations and orders, has established a fundamental policy that encourages prompt reporting of ES&H concerns as well as the prompt resolution of defective conditions identified by those reports. Resolution of concerns at the lowest management level practicable is encouraged. Applicable regulations expressly prohibit reprisals against employees who legitimately exercise their right to report concerns. An acceptable ECP should commit to adoption of the DOE policy as its basis.

6.1.2 Source

- 1) DOE Order 5480.29, Employee Concerns Management System, Section 5, Policy
- 2) *Top-Level Radiological, Nuclear, and Process Safety Standards and Principles for TWRS Privatization Contractors*, DOE/RL-96-0006, Principle 4.1.4, Safety/Quality Culture
- 3) *Richland Implementing Directive (RLID)*, 5480.29 RL Employee Concerns Program, (December 12, 1994), Section 5.2

6.1.3 Justification

This element promotes regulatory stability and reliability by demonstrating a shared DOE and Contractor commitment to a *Safety/Quality Culture*, by means of attention to the timely identification of potential safety concerns. DOE policy and practice are well-established and are considered to provide an effective overall means of TWRS Privatization Contract implementation. Note: The RU ECP Manager performs the duties of the RL ECP Manager for TWRS Privatization Contracts.

6.1.4 Attributes

- #### 6.1.4.1 Attribute 1 - Communicate corporate commitment to management of employee ES&H concerns as an element of its safety program.

Description - To be consistent with the DOE-stipulated top-level safety principles, strong declaration of corporate intentions regarding the potentially sensitive matter of employee concerns is needed. Such a declaration can ensure that the opportunity to communicate safety concerns is taken seriously by management and is accepted and used by employees at every level in the organization. This declaration should be made at a sufficiently high level of author-

ity and from a position that indicates line management acceptance for the safe operation of the facility. The term "employee concern" should be defined (e.g., RLID 5480.29, 5.2).

Submittal expectation - The Contractor's ECP submittal should make clear to any reader that formal commitments have been made by Contractor management to adopt or exceed the provisions of DOE policy for the management of safety concerns.

6.1.4.2 Attribute 2 - Prohibit reprisals

Description - It is the policy of DOE that employees of contractors to DOE should be able to provide information without fear of reprisal. Reprisal is said to occur when *prohibited acts* (29 CFR 24.2) are taken against a protected individual. An act of reprisal can be taken without the knowledge of contractor executive management and still result in liability to the organization. (Note: when nuclear safety requirements are involved, 10 CFR 820 may be invoked). A goal of an effective ECP should be to preclude the temptation to resort to reprisal as a means of dealing with employee concerns.

Submittal expectation - The Contractor's ECP submittal should state, for the benefit of management and employees, that reprisal undertaken at any level of management authority is unacceptable practice. The conditions that constitute reprisal should be made known to employees and managers throughout the organization.

6.1.4.3 Attribute 3 - Responsiveness

Description - Employee concern reports should be managed in a manner that assures prompt identification, prioritization, evaluation, corrective and protective response to safety deficiencies, and resolution of concerns raised by Contractor or subcontractor employees.

Submittal expectation - The Contractor's ECP submittal should provide mechanisms for responsive treatment of concerns consistent with the DOE program standards found in DOE Order 5480.29, Section 9.

6.1.4.4 Attribute 4 - Communicate DOE support for employee use of the Contractor ECP.

Description - Consistent with the DOE-stipulated top-level safety principles, an atmosphere of open communication should exist within the Contractor's organization that encourages the expression of ES&H concerns and promotes their resolution at the lowest level practicable. However, conditions can arise

where employees believe that recourse to their employer is not effective. Employees should be advised that they are not obligated to express their concern prior to notification of the RU or other authorized Government agency that could receive employee concerns.

Submittal expectation - The Contractor's ECP submittal should encourage employees to bring concerns to the attention of Contractor management by the most effective means available. Policy should also indicate that use by an employee of the RU or other appropriate agency employee concerns program is permitted. An acceptable structure of the resolution process is found in RLID 5480.29 Attachment 1, b. (5).

6.2 Key Element 2 - Designation of Employee Concerns Manager

6.2.1 Description

The designation of an individual with appropriate management authority is needed to ensure that the ECP incorporates attributes of objectivity, confidentiality, and privacy in established mechanisms for the implementation and maintenance of the program. An acceptable program should incorporate provisions for designating an ECP Manager.

6.2.2 Source

- 1) DOE Order 5480.29, Employee Concerns Management System, Section 9.b
- 2) RLID 5480.29, RL Employee Concerns Program, (December 12, 1994), Section 6.2 & Attachment 1

6.2.3 Justification

This element ensures compatibility between the principal RU mechanism responsible for program implementation and maintenance and that established in the Contractor's ECP. An acceptable program should provide for reasonable alignment of Contractor and RU functions, so that the status of outstanding concerns is made available to the RO.

6.2.4 Attributes

- 6.2.4.1 Attribute 1 - Formally designate one or more individuals to be responsible for management of the implementation and maintenance of the ECP.

Description - The treatment of employee concerns requires awareness of a number of special considerations that need to be kept in mind during disposition of the concern. The individuals responsible for managing the ECP should be formally designated by management and possess a thorough knowledge of their duties. Designees should be made known to the RU ECM.

Submittal expectation - The Contractor's ECP submittal should provide for the formal designation of its Employee Concerns Program Manager(s). The program should provide for periodic submission to the RU ECM of a complete list of its Program Managers, including their names, titles, and telephone numbers. This notification supports coordination of reporting information.

6.3 Key Element 3 - Notification of Employees and Establishing a Hotline

6.3.1 Description

The effectiveness of any ECP depends upon the awareness of employees that their concerns are welcome and upon the provision of a simple and confidential means of reporting concerns. Notification ensures Contractor employees are aware that recourse to the RU ECP is available and communicates the option of seeking remedy if they believe discrimination has occurred as a result of engaging in protected activity. The use of a telephone hotline permits notification of concerns upon short notice and during any shift of work. This element incorporates standard features of established DOE ECPs.

6.3.2 Source

- 1) DOE Order 5480.29, Employee Concerns Management System, Section 9.b
- 2) RLID 5480.29, RL Employee Concerns Program, (December 12, 1994), Section 6.2 & Attachment 1

6.3.3 Justification

RL has well-established mechanisms for the communication of rights and responsibilities to those wishing to make use of employee concerns programs. An acceptable program should reflect mechanisms similar to those presently in use. A Contractor's existing program, previously accepted by DOE, would be evidence of meeting this element.

6.3.4 Attributes

- 6.3.4.1 Attribute 1 - Provide effective communication methods for assuring that employees are aware of the ECP and how to use it.

Description - The Contractor should take action to ensure that the provisions of its ECP are communicated to all employees. Program guidance should provide for an information poster with instructions for its prominent display in the work place. The poster should address the employees' right to recourse directly to the DOL from prohibited acts under 29 CFR 24. In some instances, recourse is to DOE under 10 CFR 708. The RU ECM can assist employees who believe a formal complaint is warranted.

Submittal expectation - The Contractor's ECP submittal should describe an information poster which will be used to inform employees of the Contractor's policy on concerns management and of the options for initiating a concern. Information regarding reporting of prohibited acts should be included.

- 6.3.4.2 Attribute 2 - Establish a 24-hour telephone capability for easy access and timely reporting.

Description - Establishing a hotline for the receipt of initial notifications of concerns is a standard feature of DOE ECPs. (DOE Order 5480.29, Section 9.a.(6), 9.b.(9)(a)) It is acceptable to use a recording device for the initial report if it is secured in a controlled area such as a locked office or a locked cabinet in a limited access area.

Submittal expectation - The Contractor's ECP submittal should describe the provisions for establishing a secure (i.e., confidential) hotline consistent with the referenced standard.

6.4 **Key Element 4 - Operation of an Employee Concerns Management System**

6.4.1 Description

An acceptable ECP should include procedures designed to provide prompt identification, prioritization, evaluation, and corrective and protective response and resolution of employee concerns. Provisions for protection of privacy and confidentiality are needed. This element incorporates standard features of established DOE ECPs.

6.4.2 Source

- 1) DOE Order 5480.29, Employee Concerns Management System, Sections 9.a. & b.
- 2) RLID 5480.29, RL Employee Concerns Program, (December 12, 1994), Section 6.2 & Attachment I.

6.4.3 Justification

RL has well-established administrative controls consistent with DOE policy, appropriate to an employee concerns program. An acceptable program should reflect mechanisms similar to those presently in use. A Contractor's existing, previously accepted program would be evidence of meeting this element.

6.4.4 Attribute

- 6.4.4.1 Attribute 1 - Establish prompt contact with the employee to confirm understanding of the concern.

Description - Concerns may be registered in either written or verbal form. Experience suggests that prompt follow-up with the employee making the report can ensure that resolution efforts are properly focused and directed. DOE encourages the resolution of concerns by established Contractor corrective action systems. Records of concern should identify if use of normal systems for deficiency reporting have been attempted or if reasons exist for dissatisfaction with reporting by those means.

Submittal expectation - The Contractor's ECP submittal should provide for employee acknowledgment regarding intent of the concern, priority determination, and an established schedule for resolution of within 5 working days of the receipt of the concern. (DOE Order 5480.29, 9.f(1))

- 6.4.4.2 Attribute 2 - Establish and maintain a report tracking system.

Description - A formal system is needed to ensure that traceable records exist of actions taken to resolve the concern.

Submittal expectation - The Contractor's ECP submittal should describe the information to be maintained by its Employee Concerns Manager that provides unique traceability of the disposition of each concern received. The priority assigned, the individual assigned to investigate, and evidence of completed actions within the required time frames should be some of the information included. Other information which may support the generation of periodic reports

or analysis of trends may, but need not, be included in the tracking system. (RLID 5480.29, Attachment 1.b.(7))

6.4.4.3 Attribute 3 - Establish standards for adequate investigation of concerns.

Description - The thorough investigation of concerns is essential to meeting the objectives of the ECP. The criteria established for the conduct of concern resolution can be indicative of management's commitment to the program.

Submittal expectation - The Contractor's ECP submittal should describe the criteria that assigned investigators use in the evaluation of the concern. Evaluating and determining the significance of employee concerns requires professional judgment and should generally be performed by a senior line manager or ES&H staff member. Acceptable criteria to be considered as standards are found in DOE Order 5480.29, Chapter 1, 6.a.

6.4.4.4 Attribute 4 - Establish provisions for maintaining privacy and confidentiality of information and sources.

Description - It is customary, as part of encouraging employees to be forthcoming about safety concerns, to offer the opportunity for confidential treatment of their concern and identity. Mechanisms should be established so that, if confidentiality is requested, information used to permit concern resolution will not result in disclosure of privileged information or the identity of the person providing the information.

Submittal expectation - The Contractor's ECP submittal should describe provisions for the confidential treatment of employee information and identity. Records of employee decisions (i.e., choices) concerning their identification during the resolution process should be prepared. Appropriate training for those responsible for ECP management regarding such provisions should be provided. Maintenance of a secure storage system that contains all materials developed for the evaluation of the employee concern from identification through resolution to closure should be provided. (DOE Order 5480.29, 9.a. (4) & (8))

6.4.4.5 Attribute 5 - Establish standard response times for disposition of concerns

Description - Prompt acknowledgment, prioritization, investigation and disposition of the concern are in the best interest of the employee, the Contractor, and the DOE. A routine time cycle for completion of standard actions leading to closure is contained in DOE

programs as described in RLID 5480.29. Alignment of Contractor ECP response cycles to those used by the RU is desirable. Provisions for acceptable deviations, if formalized, are acceptable.

Submittal expectation - The Contractor's ECP submittal should describe the expected timeline for processing of concerns. All evaluations should normally be completed within 30 working days. Exceptions to the 30-day evaluation for any concern should be formally documented with intended completion dates identified and reviewed by a designated senior manager to indicate concurrence with this exception.

6.4.4.6 Attribute 6 - Develop and submit periodic reports of the status of concerns to management.

Description - The significance of employee concerns to the effectiveness of the Contractor's safety management plan warrants the periodic notification to senior management of the status of outstanding concerns.

Submittal expectation - The Contractor's ECP submittal should address periodic reporting of the status of concerns to its senior management. An information copy of each periodic status report should be provided to the RU ECM. Typical report contents are described in RLID 5480.29, Act. 1, b(7).

6.5 Key Element 5 - Identification of Significant Issues

6.5.1 Description

The primary objective of the ECP is to assure employees that their concerns about safety will be respected and addressed. The significance of a reported concern should be promptly established. Issues may exist which are indicative of potentially substantial breakdowns in the functioning of a Contractor's integrated safety management system. These breakdowns could be in the form of imminent hazards not recognized by the reporting employee as evidence of non-compliance with regulatory requirements. This element reflects standard features of established DOE ECPs.

6.5.2 Source

- 1) DOE Order 5480.29, Employee Concerns Management System, Section 9.d & Chapter 1.
- 2) RLID 5480.29, RL Employee Concerns Program, (December 12, 1994), Section 5.2

6.5.3 Justification

Concerns presented by employees may not reflect a full understanding of the safety significance of the situation surrounding an issue. Responsible managers are expected to remain cognizant of the overall status of conformance with agreed-upon commitments and accepted standards. Criteria are needed to ensure that information that may impact that status is properly evaluated if raised within the ECP. An acceptable program should reflect, as a minimum, the screening customarily used in established DOE programs.

6.5.4 Attributes

6.5.4.1 Attribute 1 - Establish criteria for evaluation of the significance and priority of the concern resolution.

Description - One objective of the ECP is to ensure that legitimate safety concerns that have not been identified by any other means are captured for appropriate action. In addition, the employee making a report may not fully appreciate the significance of the conditions that prompted his concern.

Submittal expectation - The Contractor's ECP submittal should establish criteria for evaluating the significance of reported concerns. Criteria should identify the priority of response and the conditions under which the concern will be examined by other parties. Acceptable criteria for evaluating significance are found in DOE Order 5480.29, 9.d.

6.5.4.2 Attribute 2 - Establish criteria for referral of concerns to affected DOE groups or other agencies.

Description - This attribute provides for a prompt evaluation of the potential urgency of action and ensures the appropriate involvement of other responsible parties.

Submittal expectation - The Contractor's ECP submittal should establish categories of concerns that warrant notification to other responsible parties. Other parties should include responsible regulatory agencies if conditions exist that are reportable by regulation or agreement to those agencies. It should be made clear that such reporting is the responsibility of the Contractor and not the employee. Representative categories for involvement of other responsible parties are given in DOE Order 5480.29, 8 f. (8). These categories are suggestions only and may be tailored by the Contractor. However, disposition of potential violation of rules subject to the enforcement authority of the Price-Anderson Amendments Act of

1988 (PAA) should be in accordance with the regulations implementing the PAA.

6.5.4.3 Attribute 3 - Monitor program results for trends of performance against program goals.

Description - Overall experience with use of the ECP can provide insight into the Contractor's effectiveness in meeting the goals of its integrated safety management program. Periodic evaluation of the program's record is appropriate when it has been significantly used.

Submittal expectation - The Contractor's ECP submittal should establish provisions for a quarterly report of all employee concerns initiated, closed, or remaining unresolved during the past quarter. This report should be submitted to the Contractor's senior management with an information copy to the RU ECM. An acceptable format would be consistent with the criteria established in RLID 5480.29, Attachment 1.b.(7).

7.0 GENERAL SUBMITTAL EXPECTATIONS

7.1 Existing ECP

The Contractor may submit for consideration an existing ECP that has been previously approved by DOE. The review of the submittal will be conducted against the guidance in this document to determine adequacy.

7.2 Other Approaches

The Contractor is encouraged to adopt the guidance provided in this document. However, other approaches to definition and management of an ECP may be acceptable. This guidance for reviewers has been provided in order that external stakeholders may understand the basis from which a determination of adequacy was established. A Contractor's substantially alternative approach should provide appropriate definition of its basis for adequacy. Lack of clarity in this regard may be grounds for a finding that the submittal is inadequate.