



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT PROGRAM

March 24, 2015

In reply refer to: FOIA #BPA-2014-00119-F

Ted Sickinger
The Oregonian
1500 SW First Avenue, Suite 400
Portland, OR 97201

Dear Mr. Sickinger:

This is the final response to your request for records that you made to the Bonneville Power Administration (BPA), under the Freedom of Information Act, 5 U.S.C. 552. Your request was received in our office on October 22, 2013, with an acknowledgment letter sent to you on October 28, 2013. On November 21, 2013, December 9, 2013, February 28, 2014, August 14, 2014, October 29, 2014 and December 17, 2014 we sent you letters extending our deadlines due to the complexity of your request.

You requested:

“A copy of correspondence, electronic or otherwise, between BPA employees and contractors and Avue Technologies regarding Avue’s DOE/OPM DE audit analysis and recommendations, dated Sept 27, 2013.”

Response:

We conducted a search of the paper and electronic records of BPA’s Human Capital Management personnel associated with audit analysis and recommendations. We have located 98 pages of material responsive to your request. We are releasing 77 pages in full and releasing 21 pages with redactions under Exemptions (b)(5) and (b)(6).

The Freedom of Information Act generally requires the release of all government records upon request. However, FOIA permits withholding certain, limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency” (5 U.S.C. § 552(b)(5)). In plain language, the exemption protects privileged documents. The deliberative process privilege protects the decision-making processes of government agencies. Records protected under this privilege must be (1) pre-decisional – created before the adoption of an

agency policy or course of action, and (2) deliberative – making recommendations or expressing opinions on a legal or policy matter. In this case, we assert Exemption 5 to protect inter-agency communications discussing the report and potential repercussions.

Records protected by Exemption 5's pre-decisional and deliberative privilege may be discretionarily released. We considered discretionary release in accordance with the guidelines set forth in Attorney General Holder's March 19, 2009, FOIA Memorandum. Agencies may decline to discretionarily release material when they reasonably foresee that disclosure would harm an interest protected by the statutory exemption. The deliberative process privilege protects the decision-making processes of government agencies, and Exemption 5 encourages open, frank discussions on matters of policy and protects against public confusion and the premature disclosure of proposed policies. Disclosure of the protected draft material and internal discussions would have a chilling effect on future BPA discussions and decisions, and we decline to discretionarily release this material.

In addition, Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency" (5 U.S.C. § 552(b)(5)). In plain language, the exemption protects privileged documents. The attorney work-product privilege protects documents prepared in anticipation of foreseeable litigation, including civil, criminal, and administrative proceedings. In this case, we assert Exemption 5 to protect email communications with BPA's Office of General Counsel.

Exemption 6 protects information in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. § 552(b)(6)). Exemption 6 requires balancing the public interest in the information against the individual privacy interest at issue. Here, we assert this exemption to redact individual cell phone numbers. We find no public interest in this information and therefore redact it under Exemption 6.

Information that falls under Exemption 6 cannot be discretionarily released; the right of privacy belongs to the individual, not to the agency. Therefore, we did not analyze this information under the discretionary release guidelines in Attorney General Holder's March 19, 2009, FOIA Memorandum.

Appeal:

Pursuant to Department of Energy Privacy Act regulations at 10 C.F.R. § 1008.11, you may administratively appeal this response in writing within 30 calendar days. If you choose to appeal, please include the following:

- (1) A copy of your original request;
- (2) A copy of the determination letter; and
- (3) A statement detailing the reasons for your belief that the denial was made in error.

Clearly mark both your letter and envelope with the words "Privacy Act Appeal," and direct it to the following address:

Director, Office of Hearings and Appeals:
Department of Energy
1000 Independence Avenue SW
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions, please contact Colleen Cushnie, Case Coordinator (BPA Contractor, ACS) at (503) 230-5986 or via email at cacushnie@bpa.gov.

Sincerely,



C. M. Frost
Freedom of Information Act/Privacy Act Officer

Enclosure: Responsive documents

From: [Avue Co-CEOs](#)
To: [Kundu.Sanjit K \(BPA\) - NSSF-4](#); [Young.Winston B \(BPA\) - NSSF-4](#)
Subject: Analysis of the DOE and OPM Audit Reports
Date: Sunday, September 29, 2013 2:09:35 PM
Attachments: [BPA Audit Findings and Reports Analysis 09 29 2013.pdf](#)

Sanjit and Winston, per our discussion, attached is the summary of the most significant elements of the OPM and DOE audit reports. We would appreciate it if you would forward this to interested and involved senior managers at BPA. As you will see in the report, the findings can be distilled to a relatively simple discussion that leads more clearly to appropriate corrective actions. We remain particularly concerned that certain of the report findings, particularly by DOE, do not remain unchallenged. To do so would materially affect the going forward competitiveness and stature of BPA as an employer. We welcome any discussions of this analysis with you or others at BPA.

We will follow up with you concerning the Avue SOW as it relates to the findings by DOE and OPM. All of the required actions in both reports are successfully addressed in Avue and were part of the demonstrated capability in Avue that warranted the selection of Avue for BPA. We understand there may be speculation regarding Avue's compliance with regulations and we can assure you that these are not founded. In all cases, Avue's rules engines and configurations comply with laws and regulations. However, there were ill-advised decisions made during the implementation of Avue at BPA and BPA's insistence on certain business processes that allowed individual employees of NH to override system safeguards and default settings. While these were consistently brought to the attention of NHQ and NH staff and managers, internal communications and quality assurance measures did not alter the past behavior of HR specialists.

Additionally, we will follow up with you to get a meeting with Kevin Bell regarding the past due amounts owed to Avue and the appropriate contract modifications required.

Please let us know if you have any questions regarding the attached report or would like us to engage with BPA managers for further discussion.

Linda and Jim

Linda E. Brooks Rix and James D. Miller

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**BPA's DOE/OPM DE
Audit Analysis &
Recommendations**

September 27, 2013

The following pages contain an analysis of the OPM and DOE reports resulting from their respective audits of the Human Capital Management Program and Delegated Examining Unit of Bonneville Power Administration. The document is designed to focus on the most critical elements of the two reports as they relate to the assessment of the HCM program at BPA.

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This document contains an analysis by Avue Technologies Corporation of the policy issues addressed for the sole purpose of assisting its client in evaluating policy options. While Avue has substantial experience and expertise in matters of federal government workforce management, including with respect to applicable law and regulation, this analysis has not been prepared or reviewed by attorneys and is not intended to be used as a legal opinion with respect to any of the matters addressed.

The DOE Audit Finding with the Most Significant Adverse Impact on BPA

DOE rates BPA's classification program as 'Not Met' for classification accuracy¹ and DOE has revoked BPA's delegated classification authority as a result. DOE states "Of the positions reviewed, the majority were assigned incorrect grade levels. In many positions reviewed it was noted that **higher factor levels had been assigned to the position descriptions than warranted on the basis of the BPA HCM classifier identifying work performed at BPA, as being agency-level.**" [Emphasis added.] DOE then requires BPA to "Review all position descriptions associated with hiring cases between FY10 and FY13 and obtain new or modify position descriptions, as necessary, so that they adequately and accurately describes the work assigned to the position and performed by the employee. Prepare written evaluation statements to determine the correct pay plan, title, series, and grade of the position."

This is an impactful statement by DOE which could lower the grades of 1,331 positions at BPA currently classified as nonsupervisory GS-13s, 14s, and 15s. Avue identified, in its July 22, 2012 policy analysis report to BPA that sustaining these nonsupervisory grades required that Bonneville be defined as an 'agency' and not a 'field office' as DOE had begun characterizing BPA. The purpose of the Avue policy analysis document was to outline actions BPA could execute to sustain these grades using a highly expert classification process that would assert BPA meets the definition of 'agency' for position classification purposes and, at the same time, provide the documentation and position management practices necessary to support the grades of these positions. For Avue's July 2, 2013 meeting with COO Anita Decker, Avue provided updated statistics regarding the possible impact of DOE's characterization of BPA as a 'field office' rather than an independent agency.

If DOE's dilution of BPA's independent agency status is sustained, at least 500 of these positions would classify at *no higher than the GS-12 level*. Although personnel practices exist to minimize the impact on current incumbents of these positions, including flagging adversely impacted positions as 'incumbent only allocations', positions that are flagged in this manner would be abolished when the current incumbent vacates the position and the FTE is then reclassified to the lower grade. The adverse impact on BPA's ability to retain and recruit in an intensely competitive energy industry labor market is significant. Not only would compensation levels be much lower, the OPM-required qualification standards have much lower requirements resulting in a less-skilled talent pool and workforce. Career ladders for BPA employees would also be truncated and the number of available promotion opportunities so reduced as to become a serious impediment to employee retention.

DOE's finding that BPA has improperly evaluated positions as being "agency-level" is not a reflection of the accuracy of BPA's classification program. Instead it is a reflection of DOE's assertion that BPA is not an independent agency. If BPA is defined as an independent agency, the classification of these 1,331 positions is, in fact, accurate. DOE's revocation of BPA's classification authority rests solely on its unilateral and highly politicized dilution of BPA's status as an independent agency. Further, DOE based its finding on a targeted sampling of positions that allowed it to back into the adverse finding. The issue that BPA needs to address here is not the accuracy of its classification program. While improvements can be made in the program – such as instituting a common federal practice of supervisory recertification of position description accuracy – the core issue is whether or not BPA is an independent agency.

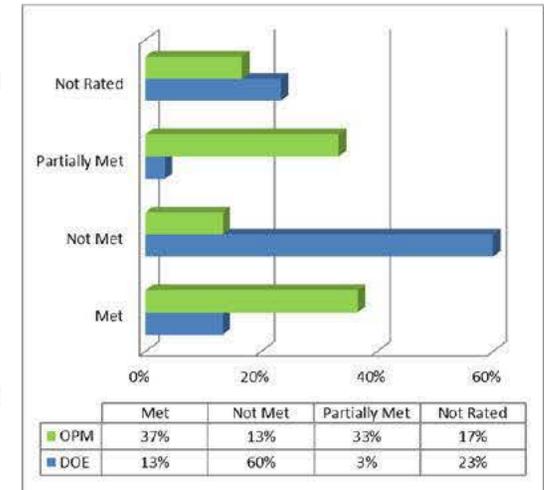
¹ See DOE HCMAP Report, Position Classification Critical Success Factor titled: Grades Properly Assigned to Positions and the Appropriate Classification Is Selected; Classification Adheres to Federal Laws, Rules, And Regulations, Page 44

The Substantive Differences between the OPM and DOE Audit Reports

The differences between the OPM and the DOE audit reports are striking. There are 30 total critical success factors in the combined OPM and DOE reports. Of the 30, DOE rated BPA as ‘Not Met’ on 18 of the 30, whereas OPM rated BPA as ‘Not Met’ on only 4 of the 30. Additionally, OPM was more likely to credit BPA with ‘Partially Met’ rather than ‘Not Met’ ratings on factors. On factors where OPM and DOE disagreed on BPA’s rating, OPM rated BPA more favorably 87% of the time.²

In theory, some differences could be based on different case reviews. However, expert HR practitioners who reviewed the findings, report that OPM did not find issues materially different than those presented by DOE. Even if DOE examined more cases, their findings are still in the same class as the findings by OPM – meaning finding more instances of the same problem would not support a more severe rating.

The DOE report does appear to focus its ratings more on adherence to DOE policy than laws or regulations. For example, DOE states that “BPA has **chosen** not to disseminate or follow written DOE orders and policy guidance, as well as any **verbal direction** from proper HR authorities in DOE Headquarters, associated with the implementation and execution of Federal HR activities.” *[Emphasis added.]* The emphasis on BPA’s *choices* runs through the report as it does in this broad-based finding. DOE’s reliance on “verbal direction” weakens its own position here as such direction cannot be considered a deviation from DOE policy. There is an existing memo of April 2, 2010 from COO Anita Decker to then DOE CHCO Michael Kane regarding the adoption of DOE HCM policies. The memo states that:



“The BPA Administrator has the delegated authority to determine, for all DOE HR directives, which directives, or parts thereof, are applicable to BPA, with two exceptions. First, HR directives documented in Appendix C to Order 251.1C are fully applicable to BPA. This list is limited to HR directives addressing the Senior Executive Service, Annual Confidential Financial Disclosure Reports, and the Drug-Free Federal Workplace program. Second, new or modified directives taking effect after July 20, 2009 will apply to BPA if by their terms they specifically state they are applicable to BPA. In determining whether a new or modified DOE HR directive should specifically state that it applies to BPA, the Department and BPA will consult on the needs of the Department as balanced against BPA’s unique statutory authority, business-like operating processes, and historic autonomy. If a current HR directive is not applicable to BPA, it is presumed that a modification of the directive will not be applicable to BPA absent a compelling Department need. If BPA’s systems and processes already address the concerns giving rise to a new Directive, it is presumed that the new directive will not apply to BPA absent a compelling Department need.”

² See Appendix A for a detailed grid of the findings and corrective actions. See Appendix B for the accuracy of the regulatory citations in the DOE report.

BPA was established in law as a separate organization with a mandate to implement its unique statutory authorities in a “sound and business-like manner.” 16 U.S.C. § 839f(b). BPA must act with the flexibility and efficiency of a business enterprise, while at the same time being accountable as a public organization. BPA was initially organized as a separate entity within the Department of the Interior, with a degree of autonomy compatible with the nature of the agency and the regional character of its programs and functions. Congress reaffirmed this independent arrangement in the Department of Energy Organization Act when it directed that BPA “shall be preserved as a separate and distinct organizational entity(y) within the Department” and that the Secretary’s functions shall be exercised by the Secretary “acting by and through” the Administrator. 42 U.S.C. § 7152(a)(2).

BPA has a permanent, indefinite appropriation in the form of the “BPA Fund.” 16 U.S.C. § 838i(a). BPA is fully self-financed and receives no direct appropriations for operations. BPA must generate sufficient revenues from the sale of power and transmission services to cover its total costs. This requires BPA to manage its financial affairs more like a business than a government agency. BPA’s human resource and labor relations policies, programs, systems and processes have been developed in support of these authorities and principles.

It would appear that DOE’s ratings, in large part, are critical of BPA’s authority to operate under a variety of delegations that recognize the independence of BPA and the Administrator’s ability to best determine how to accomplish the BPA mission. This is also in keeping with DOE’s assertion in the Position Management section of its report that BPA is not an independent agency. Failure to follow DOE policy, especially given BPA’s specific delegation to operate its HR program with independence, should not be the basis for DOE’s revocation of BPA personnel authorities or many of the ratings and conclusions reached in its audit report, which create the appearance of a catastrophic failure on the part of BPA’s HCM program. Further, DOE’s report requires BPA compliance with DOE policies that specifically exempt BPA (see DOE Order 331.1C, for example).

Actual violations of laws and regulations are the basis for the OPM report, which does not seek to force compliance with DOE policy. The contrast in findings illustrates the degree of DOE’s reliance on claims that BPA’s systemic problems are associated with a failure to follow DOE policy. The policies highlighted in the audit report’s findings would not correct the systemic causes of BPA’s non-compliance with the laws and regulations found in OPM’s audit report. Required actions focused on DOE policy adherence are merely procedural elements of the program that would not provide material value to BPA. In fact, many of the recommendations would create inefficiencies and further detract from BPA’s ability to meet the 80-day time-to-hire mandate in the President’s Hiring Process Improvement Memorandum. DOE’s reliance on deviations from its own policies, as the basis for BPA’s ratings, demonstrates the extent to which these negative ratings are without merit. Further, DOE’s assertions that “The level of effort needed to complete all required corrective actions is monumental and the road to full recovery will be extremely challenging,” are nothing more than hyperbole. As illustrated in OPM’s report, BPA’s implementation of the required training and their acquisition of the Avue talent acquisition system place BPA in a position to operate a compliant talent acquisition program. Compliance with DOE policy and guidance is contrary to the prior delegations and represents a clear subordination of BPA.

OPM and DOE both identified the following contributing factors leading to the conclusions in their respective reports. We include a column to show if the same contributing factor was identified by Avue’s report of its audit of BPA hiring actions in August of 2012.

DOE	OPM	Contributing Factor	Avue
✓	✓	Lack of federal HR competencies and experience.	✓
✓	✓	Raising the cut-off score for the highest quality category after the vacancy was posted.	✓
✓		Not following DOE orders, policy guidance, and verbal direction.	

DOE	OPM	Contributing Factor	Avue
✓		Slow implementing an automated hiring process.	✓
✓		Troubling number of errant personnel practices.	

The Relative Importance of Correcting Specific Hiring Problems Found in the OPM and DOE Audit Reports

It is very important to note that differences in actions taken by OPM versus DOE. OPM decertified individual staff members in BPA but not the Delegated Examining Unit (DEU) supporting BPA hiring. This would have enabled BPA to continue hiring using Avue as the alternative arrangement because Avue personnel are DE certified. In contrast, for the same infractions and regulatory violations that OPM found, DOE decertified BPA's DEU which has all but shut down hiring at BPA.

The table below outlines the underlying problems that need to be corrected in the procedures, practices, and policies of the hiring program in BPA.

The 'Impact' column is meant to illustrate the degree to which solving that particular underlying problem will help BPA move forward in a fully compliant manner. Items are assigned a score of a 1 (the greatest positive impact) through 5 (the least positive impact). The 'Priority' assigned is meant to illustrate the urgency of solving that problem so that hiring authorities can be restored and adhere to law and regulation. Items in this column are assigned a score of 1 (very urgent) through 5 (low priority). If an item is rated as -0-, it means that item has already been addressed.

An * next to the issue means that it is fully resolved and any future incidents are prevented by the rules engines in the Avue system. By implementing Avue, these issues would not recur again or, if individual HR practitioners attempt to do this in Avue, the issue would be flagged and escalated to management for resolution.

Notes regarding specific items follow this table.

Identified By:		Impact	Priority	Underlying Problem Identified
DOE	OPM			
✓	✓	1	1	Inconsistent application/applicant assessment of basic qualifications requirements.*
✓	✓	1	1	Overly restrictive selective placement (screen-out) factors.*
✓	✓	1	1	Using ranking KSAs as if they were screen-out factors for basic qualification determinations.*
✓	✓	1	1	No internal audit controls or accountability or internal quality controls on hiring actions.*
✓	✓	1	-0-	Raising cut-off scores for the highest quality group after the vacancy announcement is posted.* <u>1/</u>
✓	✓	1	1	Inaccurate veterans' preference adjudications.*

Identified By:		Impact	Priority	Underlying Problem Identified
DOE	OPM			
✓	✓	1	1	Superior qualifications appointments are not documented properly.
✓		2	2	Corrective actions from the 2010 audit report were not completed.
✓	✓	3	3	BPA does not clear the DOE reemployment priority lists (RPL) prior to making selections on new vacancies.* <u>2/</u>
	✓	5	5	Print the text in the vacancy announcement rather than use links to online information sources.* <u>3/</u>
✓		5	5	BPA hires contractors in over 50% of the cases audited. <u>4/</u>
✓	✓	5	5	BPA “continues to use” or “inappropriately encourages” narrative responses to KSAs.* <u>5/</u>
✓	✓	5	5	BPA does not request college transcripts if the applicant has already held that position another agency. * <u>6/</u>
✓	✓	5	-0-	The form BPA uses for collection of RSNO data has not been approved by OMB. * <u>7/</u>

Notes:

- 1/ This was formally addressed in May of 2012; however, DOE maintains that the waiver process is not appropriate whereas OPM requires that if the waiver process is to be used, it be documented in BPA policy.
- 2/ BPA has never had a need to clear an RPL because it has never had a reduction-in-force or other layoff action. DOE is requiring BPA to use its RPL and by that requirement is extending the boundary of DOE’s RPL. This allows DOE to ensure that BPA vacancies are used to fill displaced employees who were displaced by virtue of the actions of other DOE components.
- 3/ Links are prevalent in all federal vacancy announcements including those posted by OPM. The links are one way to meet the requirements of the President’s Hiring Process Improvement Memorandum to reduce the length of vacancy announcements. In one example, where BPA posted a job using links, the vacancy announcement was eight pages long. By putting text in instead of links, the announcement was made three pages longer.
- 4/ This is not a regulatory violation. It appears that DOE is making a case that BPA uses overly restrictive criteria in vacancy announcements to give preferential treatment to contractors and exclude applicants without BPA experience from meeting basic qualifications. This is a highly subjective finding.
- 5/ This is focused on BPAs requirement that applicants provide KSA narrative justifications on submitting their initial applications. The President’s Hiring Process Improvement Memorandum prohibits requiring narratives until after the applicant has been determined to be at least basically qualified for the position. In the prior manual application process, applicants did not have a two-part process which meant they responded in the ‘initial application.’ DOE components currently use this language in their initial application process: *“Your application and resume should demonstrate that you possess the following knowledge, skills and abilities (KSAs). Do not provide a separate narrative written statement. Rather, you must describe in your application how your past work experience demonstrates that you possess the KSAs identified below. Cite specific examples of employment or experience contained in your resume and describe how this experience has prepared you to successfully perform the duties of this position. DO NOT write “see resume” in your application!”* This would meet OPM’s definition of ‘inappropriately encouraging’ applicants. It appears DOE should resolve this on a Department-wide basis.
- 6/ This requires BPA to get college transcripts from applicants to determine if the applicant meets any education requirements mandated by OPM qualification standards, even if another agency, by appointing that applicant to a job in the same occupational series, has already done so. This is redundant work as a practice and is contrary to requirements, such as in the President’s Hiring Process Improvement Memorandum, which requires such proof documents be submitted only at the time the applicant is successfully selected and prior to the hire date.
- 7/ The form BPA uses in Avue for all applications has been approved by OMB.

The Most Interesting Element of Both Reports

On July 15, 2013, the DOE IG's Management Alert, asserted that, *"Although only preliminary, we have determined that Bonneville engaged in prohibited personnel practices in 65 percent (95 of 146 cases) of its competitive recruitments conducted from November 2010 to June 2012."* Neither OPM's or DOE's report contained a finding of a PPP.

To find a PPP, "An employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:"³

- (4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;
- (5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
- (6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
- (11) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement;
- (12) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title. This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

It is important to note that a PPP is not the same as a Merit System violation. To demonstrate a PPP occurred, an individual with the authority to take a personnel action must have acted in a manner that meets the criteria of at least one of the 12 prohibited personnel practices. As reported in its August 26, 2012 report, Avue found, in its audit of BPA cases where veterans applied and the cutoff scores were raised after the vacancy was posted, that:

"Although the practice, on the surface, might appear alarming, examination of the problem in more detail, in particular the statistics from cases ... reveals that no pattern of adverse impact emerges regarding veterans. In fact, of the 50 cases, only 11 affected veterans leaving 78% affecting only non-veterans... The insertion of cut-off scores was a practice to help reduce the BQ group to a manageable size rather than an attempt to disqualify veterans or to circumvent veteran's preference."

OPM's report states it is the competency level of the HR staff that is the likely root cause of the regulatory findings in their report. OPM states:

While we acknowledge BPA faces challenges resulting from considerable transition in HR staff over the past few years, we believe competency gaps among HR staff members are chiefly responsible for the problems we identified. We are also concerned by the lack of a

³ Title 5 - Government Organization And Employees, Part Iii - Employees, Subpart A - General Provisions, Chapter 23 - Merit System Principles, Section 2302 - Prohibited Personnel Practices

system of accountability, including quality controls and competency assessments for HR staff, which we believe exacerbate these problems. We are encouraged by steps you and your staff have taken since our evaluation began to address needed improvements, notably, the identification of appropriate training and developmental opportunities for the staff.

The root cause of DOE's findings are similarly are limited to:

Over the past few years, BPA has chosen to hire individuals without any prior Federal HR knowledge or experience into key HR management positions and in HR staff specialist positions... BPA has chosen not to disseminate or follow written DOE orders and policy guidance, as well as any verbal direction from proper HR authorities in DOE Headquarters, associated with the implementation and execution of Federal HR activities.... BPA has been slow in implementing an effective automated hiring process, thus having to rely on cumbersome paper-based manual processes.

Three separate reviews by, three different organizations, all conducted by federal HR experts, failed to confirm the IG's preliminary determination. Allegations that violations of category rating and other hiring procedural and regulatory errors were the result of HR specialists, hiring managers, or BPA executives engaging in Prohibited Personnel Practices, are simply unfounded.

Appendix A: Comparison of DOE and OPM Findings

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
Documented job-analysis process that are valid (as defined in the Uniform Guidelines) are used as a basis to identify objectives, assessable KSA's and/or competencies appropriate to the positions being filled, including any selective placement factors for both Merit Promotion and Delegated Examining. In addition to the Job Analysis, the appropriate qualification standard should be included in the case examining file.	Not Met	Met	DOE: Required Action: Develop job analysis and crediting plans that have a rational relationship between performance in the position to be filled and the employment practice used. Use certification requirements that are not overly restrictive so that competition is fair and open. Discontinue the practice of eliminating candidates from consideration for failing to identify or address a particular knowledge, skills and/or ability. Required Action: Include a signed copy of a job analysis and crediting plan in all delegated examining and merit promotion case files. Rate and rank candidates using valid job analysis that are conducive to the Uniform Guidelines. Citation: 5 USC 2301(b)(1) and 5 CFR 300.103(a) and 5 CFR 300.103(b). OPM: NO REQUIRED ACTION	Avue Comments: This "Required Action" is automatically generated by the Avue System for all future BPA Vacancy Postings. The Job Analysis methodology used within Avue provides for creation of a Job Analysis worksheet at the time that the position description for the vacancy is created with system generated KSAs that are directly related to the duties of the position to be filled.
Assessment criteria (e.g., crediting plans, occupational questionnaires) are aligned with job analyses; they make clear and appropriate distinctions between creditable levels of qualifications and do not contain in appropriate measures (e.g., knowledgeable peculiar to agency regulations or processes which could be learned relatively quickly). Hiring Management (when used) contained retrievable documentation that links job-related KSA's with a job analysis and the supplemental questions upon which applicants are evaluated.	Not Met	Partially Met	DOE: Required Action: Ensure that all rating factors are measurable. Rate, rank and refer candidates solely on the basis of the relative ability, knowledge and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301 (b) (2) and 5 U.S.C. 2301 (b)(1) Required Action: Discontinue the practice of requiring applicants to respond to KSA's with written narratives at the time of application. Citation: Improving the Federal Recruitment and Hiring Process, dated May 11, 2010. OPM: HR STAFF MEMBERS NEED TRAINING SO THAT THEY CAN RELIABLY AND COMPETENTLY DEVELOP GOOD CREDITING PLANS.	Avue Comments: This "Required Action" is automatically generated by the Avue System for all future BPA Vacancy Postings. The Crediting Plan is "system generated" around the KSAs selected for use with the Vacancy Announcement. KSA narratives are NOT required unless specifically selected by the vacancy creator (HR specialist).
Public notice and merit promotion vacancies meet legal and regulatory requirements, including posting on USAJobs. Length of open periods is appropriate to the type of positions announced and to the relevant applicant pools. Vacancies opening and closing periods are valid and adequately justified. Vacancy announcements include a definition of well qualified for CTAP/ICTAP eligibles in addition to identifying all required information from applicants and distinguished specialized experience that fits the applicant pool (meaning not to agency specific or restrictive thus limiting the qualified applicant pool).	Not Met	Partially Met	DOE: Required Action: Specialized experience statements: All specialized experience statements should be clearly distinguished per grade level. Each grade level should have a meaningful level of experience required for each position, at each grade level, keeping in mind the requirements highlighted in Qualification Standards, Policies Instructions, section E. Citation: Qualification Standards, Policies Instructions, section E. DOE: Required Action: Prepare vacancy announcements consistent with public notice requirements. Ensure announcements include the number of positions to be filled (or a standard statement, e.g., number of positions subject to change) and the appropriate Equal Employment Opportunity Statement that includes sexual orientation as prescribed in 5 CFR 330.707 and Executive Order 13087. Avoid using language not relevant to the competitive process, e.g., Time in Grade on public notice vacancy announcements. Ensure merit promotion announcements clearly identify the area of consideration and the definition of well qualified as it pertains to CTAP/ICTAP eligibles. Citation: 5 CFR 330.707 and Executive Order 13087. OPM: RECOMMEND ISSUING SEPARATE JOAS FOR MP AND DE. REQUIRED ACTION: JOA TEMPLATE; ACTION PLAN TO OPM TO ENSURE COMPLIANCE OPM citations: 5 CFR 330.104 and 5 CFR 250.103	Avue Comments: This "Required Action" is automatically generated by the Avue System for all future BPA Vacancy Postings. The Avue systems allows the user to issue one vacancy announcement that will field candidates for all of the relevant hiring authorities based on their attributes and eligibilities. The vacancy announcements contain the necessary information for ALL categories of applicants, and the system determines if they should be considered under MP or DE processes, and takes the "guess work" out of that process for the applicant.
Policies and procedures on acceptance and processing of applications, including from status applicants, are appropriate, specified clearly in vacancy announcements, and consistently applied. There is an active policy or standard operating procedure that contains information on accepting late applications from 10-point preference eligibles.	Not Met	Partially Met	DOE: Required Action: Immediately discontinue any practice of altering the cut-off score after the job announcement has been posted. BPA's operating procedural guidance must be re-written to comply with Federal regulations and agency policy regarding the acceptance of applications and the Category Rating process. Consult and work with the Office of Human Capital Management, Human Capital Policy Division (HC-11) to ensure that policies are aligned with the Department's, OPM and Title 5 regulatory requirements. OPM: ESTABLISH WRITTEN PROCEDURES TO 'RECONSIDER RATING DECISIONS' AND FOR 'STAFF INVOLVED IN DE TO NOTIFY SUPERVISORS IN WRITING OF INTENT TO APPLY...' OPM Citations: (1) 5 USC 1104(B)(1), 5 CFR 250.102 AND 5 CFR	
Delegated Examining and Merit Promotion case files are organized and readily available (with all information needed to reconstruct case files). In addition, supporting documentation is included in file along with timely and accurate notices of results.	Met	Met	DOE: Most Delegated Examining and Merit Promotion case files were organized and readily available for review. Most supporting documentation was obtainable, thus giving the HCMAP team the ability to reconstruct cases where applicable. There were however, many cases that the team was unable to render a conclusion, although they were reconstructable. OPM: The examining process can be fully reconstructed. Documentation stored in automated staffing systems is accessible...	

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
DE operations reflect adherence to the expectations of the Pledge to Applicants that enable rather than deter applicants from applying for vacancies (e.g., plain-language vacancy announcements with clear application procedures; meaningful definitions of qualifying specialized experience specific to positions advertised; clear descriptions of evaluations methods; timely applicant updates on status of applications; and timely hiring process).	Not Met	Not Rated	DOE: Required Action: BPA must adhere to the Pledge to Applicants, the Presidential Hiring Reform of 2010, and to any Departmental or OPM policies relating to Delegated Examining and Category Rating.	
Training and comprehension: Federal staff members conducting competitive examining have a current DE certification from OPM and a clear understanding and applicability of internal and external recruitment process.	Not Met	Met	DOE: Required Action: Direct all HR Specialist's that are involved with every aspect of Delegated Examining and Merit Promotion to take the following courses (at minimum): Basic Staffing, Classification, Job Analysis and KSA Examining, Delegated Examining Training, Qualification Analysis and Pay Setting. OPM: PROVIDE TRAINING (BECAUSE INDIVIDUAL DE CERTIFICATIONS WERE REVOKED)	
Recruitment activities use appropriate sources in an endeavor to achieve a diverse applicant pool from all segments of society.	Partially Met	Not Rated	DOE: Recommendation: Work with HC-13, Employment Solutions Division, in order to receive information on the best approach to reach more minority candidates, disabled candidates, and diverse applicants from all segments of society.	Avue Comment: There are over 1,600 recruitment sources available within Avue for use that will allow BPA to reach out to a wide – range of applicant pools to meet diversity recruiting needs.
Late applications are appropriately reviewed to determine if they meet valid exceptions and are processed accordingly and consistently. In case examining situations, late applications from 10-point preference eligibles are retained and referred for future vacancies as appropriate.	Met	Met	DOE: BPA handles late 10-point preference applicants accordingly. The team found no significant issues in this area.	
The application process complies with the merit system principles and related legal requirements. For example, appropriate qualification standards are used; applicants with comparable qualifications receive appropriate and comparable treatment.	Not Met	Not Rated	DOE: Required Action: Ensure that all rating factors are measurable. Rate, rank and refer candidates solely on the basis of the relative ability, knowledge and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301 (b) (2) and 5 U.S.C. 2301 (b)(1). DOE: Required Action: Discontinue altering or modifying the cut-off score after the job opportunity announcement has been posted. Begin to conduct qualification analysis base on the OPM standards. Discontinue the process of using the minimum qualification process as a method to determine who will be among the best qualified. Citation: Memorandum Guidance #10, OPM Qualification Standards, Delegated Examining Handbook, Title 5 CFR 330 and 5 USC 2301.	Avue Comment: This practice was “pre-Avue” implementation at BPA. The “Category Rating Rules” are defined within the Avue system, and applicants are grouped into the respective categories based on their overall scores, and Veteran’s Preference is then applied. The Referral List functionality employees a “list locking” mechanism that ensures that eligible veterans must be adjudicated prior to non-veteran applicants being considered.
When a self-assessment rating instrument is used to rank candidates, applicant responses are checked against other application materials for evidence supporting applicant ratings. Appropriate rating adjustments are made and documented. Official transcripts or equivalent documentation support applicants who qualify based on education.	Not Met	Met	DOE: Recommendation: The HCMAP team strongly recommends the consideration of an automated system in order to facilitate a seamless process of accepting and reviewing applications. DOE: Required Action: Discontinue altering or modifying the cut-off score (best qualified category) after a job announcement has been posted. Begin to conduct qualification analysis based on the OPM standards. Discontinue the process of using the minimum qualification process as a method to determine who will be among the best qualified. Citation: Memorandum Guidance #10, OPM Qualification Standards, Delegated Examining Handbook, Title 5 CFR 330 and 5 USC 2301.	Avue Comment: This practice was “pre-Avue” implementation at BPA. The “Category Rating Rules” are defined within the Avue system, and applicants are grouped into the respective categories based on their overall scores, and Veteran’s Preference is then applied. The Referral List functionality employees a “list locking” mechanism that ensures that eligible veterans must be adjudicated prior to non-veteran applicants being considered.
Certification activities for displaced/surplus employees (ICTAP, CTAP and RPL) are documented and meet requirements, including second reviews and notification of otherwise-eligible ICTAP candidates found not well qualified.	Not Met	Partially Met	DOE: Required Action: The Department has created a single Reemployment Priority Lists based on geographic locations for which all components within the local commuting area must clear. Case files must be indicative of the RPL clearance. As such, until BPA begins to use the Department’s intranet sites, they must contact someone in HC-11 to clear RPL before posting any vacancy positions. Citation: 5 CFR 330.201 (b). OPM: MUST MAINTAIN VERIFICATION OF CLEARANCE OF THE AGENCY RPL OPM Citations: 5 CFR 330.201C AND 5 CFR 330.210(D)	

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
Minimum qualification determinations are documented and can be reconstructed. Applicable qualification standards are applied correctly.	Not Met	Partially Met	DOE: Required Action: Ensure that all candidates' qualifications are reviewed and assessed in accordance with the Qualification Standards and any other rating criterion that is directly related to the position being filled. Citation: 5 U.S.C 2301 (b) (1) 5 CFR 300.103. OPM: BPA HR STAFF MEMBERS NEED TRAINING	Avue Comment: This finding as outlined above was "pre-Avue" implementation at BPA. Applicants applying for vacancies that have been advertised within the Avue system are all evaluated by the same "objective systems" criteria when it comes to making Basic Qualifications determinations. All applicants are required to possess one year or more of Specialized Experience in order to meet Basic Qualifications.
Determinations regarding eligibility for veterans' preference (VP) and/or VEOA are properly made, and individuals with such preference are afforded their legal rights in recruitment, referral, consideration, and selection.	Not Met	Partially Met	DOE: Required Action: Certify eligible applicants by grade level and numerical rating (when applicable) augmented by veterans' preference status accordingly. Ensure that veterans' preference is applied and annotated accurately whenever applicable. Citation: 5 USC 3313; 5 CFR 250.101; 5 CFR 250.102 and 5 CFR 332.401. DOE: Required Action: Ensure hiring cases are well documented to demonstrate that all applicants have been treated fairly and equitably during all phases of the hiring process. Citation: 5 USC 2301; 5 USC 2302. OPM: HRMIS CORRECTED IN 2 CASES; NO FURTHER RECOMMENDED OR REQUIRED ACTION	
Certification procedures involving the "rule of three", category rating or internal placement procedures are properly followed and well documented. Selectees are qualified for positions.	Not Met	Met	DOE: Required Actions: Ensure that all candidates' qualifications are reviewed and assessed in accordance with the Qualification Standards and any other rating criterion that is directly related to the position being filled. Citation: 5 U.S.C 2301 (b) (1) 5 CFR 300.103.	
Certificates are audited and documented by certified staff or trained contractors before appointees entrance on duty. Selections are properly made and actions such as declination or failure to respond are properly documented.	Not Met	Met	DOE: Required Actions: Rate, rank and refer candidates solely on the basis of the relative ability, knowledge and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301 (b) (2) and 5 U.S.C. 2301 (b) (1).	
Candidate's interview, selection, and placement practices are "neutral" and do not arbitrarily favor or disfavor specific candidates or types of applicants	Not Met	Not Rated	In a majority of the cases reviewed BPA failed to treat many candidates consistently, fairly, and equitably which resulted in lost consideration for a substantial number of applicants; and a missed opportunity to compete and interview for vacant positions. DOE: Required Actions: Ensure that all candidates' qualifications are reviewed and assessed in accordance with the Qualification Standards and any other rating criterion that is directly related to the position being filled. Citation: 5 U.S.C. 2301(b)(1) 5 CFR 300.103. DOE: Required Actions: Rate, rank and refer candidates solely on the basis of the relative ability, knowledge, and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301(b)(2) and 5 U.S.C. 2301 (b)(1).	Avue Comment: This practice was "pre-Avue" implementation at BPA. Under the Avue System, all candidates are evaluated consistently by the system, applying the correct OPM qualification standards and other valid and merit-based criteria uniformly. Not only is this highly effective in creating a merit-based process, any attempts by HR or hiring managers to override such determinations are flagged and can be escalated for review by subject-matter experts.
Decisions to use pay flexibilities for hiring (e.g., recruitment and relocation incentives and superior qualifications and special needs pay setting) are appropriately documented and justified accordingly.	Met	Partially Met	DOE: Required Action: BPA must discontinue the practice of offering recruitment incentives for positions that are easily recruited for and available to fill without past recruitment difficulties, i.e., Human Resource Specialist. DOE: Required Action: Discontinue the practice of using superior qualifications appointment for the purpose of setting pay at a rate comparable with the appointee's non-Federal salary. Clearly document why the appointee's qualifications were truly superior to that of others in the field or factors supporting the superior qualifications of the candidate(s). Citation: 5 U.S.C. 1104(c) and 5 CFR 531.212. DOE: Required Action: Discontinue the practice of using superior qualifications appointment for the purpose of setting pay at a rate comparable with the appointee's non-Federal salary. Clearly document why the appointee's qualifications were truly superior to that of others in the field or factors supporting the superior qualifications of the candidate(s). Citation: 5 U.S.C. 1104(c) and 5 CFR 531.212. DOE: Recommendation: Ensure that all recruitment incentives are appropriately justified and consistently at all times. To facilitate this process, conduct (or continue to conduct) workforce and trend analysis to determine the most appropriate grade levels to fill all positions and the best sources of applicants. Develop a recruitment strategy which includes plans to conduct targeted outreach and recruitment activities to ensure a viable and manageable intensive pool of interested, diverse, and well qualified applicants. OPM: ESTABLISH A MECHANISM TO PLAN, REVIEW, AND DOCUMENT... OPM Citation: 5 CFR 531.212 – Superior Qualifications and Special Needs Pay Authorizations	
Established procedures for objections and requesting veteran pass-overs are followed and appropriate action (if any) is taken.	Not Met	Met	DOE: Required Action: Consult and work with the Office of Human Capital Management, Human Capital Policy Division (HC-11) to ensure that BPA HCM guidance papers are aligned with the Department's, OPM and Title 5 regulatory requirements.	

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
Annual self-audits of DE activities have been conducted and performed by staff who are not involved with the DE operations and have current DE certifications.	Not Met	Not Met	Required Action: Conduct the Annual Self Audits as required by the Office of Personnel Management's Delegated Examining Handbook. Citation: Delegated Examining Operations Handbook, Chapter 7, section D. OPM: PROVIDE A PLAN TO MEET REQUIREMENT TO CONDUCT ANNUAL INTERNAL DE AUDITS	
Appropriate corrective action is taken when cases of lost consideration or other types of violations are identified.	Not Met	Met	DOE: As soon as an illegal appointment has been identified, contact the Office of HC-11 for remedial guidance. In addition, in cases where lost consideration is evident, immediately contact those candidates who failed to receive appropriate consideration and offer priority consideration and/or placement where appropriate.	
SF-50's and 52's are coded accurately and reflects all requirements in the Guide to processing personnel actions and the Guide to Personnel Data Standards. Official Personnel Folders have accurate documentation in file thus supporting the accession.	Met	Partially Met	DOE: Overall, the SF-50's are coded with the correct NOA and legal authorities. A significant improvement from the 2010 HCMAP audit. OPM: IDENTIFY CAUSE OF NONCOMPLIANCE TO GPPA; SUBMIT PLAN. RECOMMEND INTERNAL TRAINING AND INTERNAL QA OPM Citations: 5 CFR 293.303(E) AND 5 CFR 250.103	
The DE coordinator submits accurate and timely quarterly workload reports via OPM's DE Information System.	Not Met	Not Rated	DOE: Required Action: Begin to issue the Delegated Examining Quarterly workload reports to the Agency's Delegated Examining Coordinator in a timely manner. Citation; Delegated Examining Operations Handbook, Appendix C.	
OPM Report, Appendix B, Page 5 of 15, #5: Applicants may apply by submitting a resume in the format of their choosing...Applicants are not requested or required to provide written essays or narratives at the initial stage of the process.	Not Rated	Partially Met	OPM: UPDATE JOA TEMPLATES AND ASSESSMENT TOOLS TO ELIMINATE REQUIREMENTS TO PROVIDE EXPLANATIONS FOR EMPLOYMENT GAPS AS PART OF INITIAL APPLICATION PROCESS.	
OPM Report, Appendix B, Page 7 of 15, #8Qualifications are uniformly applied...determinations are documented and accurately made.	Not Rated	Not Met	OPM: RECONSTRUCT ALL STAFFING AND PERSONNEL ACTIONS TAKEN SINCE JUNE 30, 2011	
OPM Report, Appendix B, Page 10 of 15, #13Certification and merging procedures are appropriate and consistent with vet pref laws and agency policies	Not Rated	Not Met	OPM: TAKE CORRECTIVE ACTIONS IDENTIFIED IN APPENDIX C CASE LISTINGS 1 AND 2 (OF FINAL REPORT)	
OPM Report, Appendix B, Page 10 of 15, #15Selections are properly made from candidates in the highest quality category on a certificate of eligibles, IAW vet pref laws.	Not Rated	Partially Met	OPM: AS PREVIOUSLY MENTIONED, INAPPROPRIATE CERTIFICATION PROCEDURES LED TO IMPROPER SELECTIONS.	
OPM Report, Appendix B, Page 11 of 15, #16 Applicants are notified of the status of their applications at key stages...	Not Rated	Met		
OPM Report, Appendix B, Page 13 of 15, #23An accountability system is in place to assure compliance with MSPs and legal, regulatory, and Interagency Delegated Examining Agreement...	Not Rated	Not Met	OPM: ...LITTLE EVIDENCE THAT BPA ENSURED ITS PROCESSES ARE EFFICIENT AND EFFECTIVE FOR COMPETITIVE EXAMINING. BPA DID MONITOR TIME TO FILL WITH END-TO-END NHQ PROCESS...	
OPM Report, Appendix B, Page 14 of 15, #25Security of examining records is proper; Privacy Act information is properly maintained and safeguarded...	Not Rated	Met		

Appendix B: Review and Analysis of Regulatory Citations in the DOE DEU Audit of BPA

Avue reviewed all of the regulatory citations in the DOE audit report. The review determined that on 10 occasions, DOE cited the incorrect regulation in asserting its findings. In two additional cases, DOE linked Merit System Principles to its assessments which, given the necessarily board-based and goal-oriented nature of Merit System Principles, make it difficult to identify or correct a specific regulatory violation.

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
Documented job-analysis process that are valid (as defined in the Uniform Guidelines) are used as a basis to identify objectives, assessable KSA's and/or competencies appropriate to the positions being filled, including any selective placement factors for both Merit Promotion and Delegated Examining. In addition to the Job Analysis, the appropriate qualification standard should be included in the case examining file.	Not Met	<p>Citation: 5 USC 2301 (b)(1) Merit system principles (b) Federal personnel management should be implemented consistent with the following merit system principles: (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. Is citation valid? MAYBE Was citation applied correctly? MAYBE - it is overly broad to apply directly to BPA cases.</p> <p>Citation: 5 CFR 300.103 (a) Job analysis. Each employment practice of the Federal Government generally, and of individual agencies, shall be based on a job analysis to identify: (1) The basic duties and responsibilities; (2) The knowledges, skills, and abilities required to perform the duties and responsibilities; and (3) The factors that are important in evaluating candidates. The job analysis may cover a single position or group of positions, or an occupation or group of occupations, having common characteristics. Is citation valid? YES Was citation applied correctly? YES</p> <p>Citation: 5 CFR 300.103 (b) Relevance. (1) There shall be a rational relationship between performance in the position to be filled (or in the target position in the case of an entry position) and the employment practice used. The demonstration of rational relationship shall include a showing that the employment practice was professionally developed. A minimum educational requirement may not be established except as authorized under section 3308 of title 5, United States Code. (2) In the case of an entry position the required relevance may be based upon the target position when— (i) The entry position is a training position or the first of a progressive series of established training and development positions leading to a target position at a higher level; and (ii) New employees, within a reasonable period of time and in the great majority of cases, can expect to progress to a target position at a higher level. Is citation valid? YES Was citation applied correctly? YES</p>
Assessment criteria (e.g., crediting plans, occupational questionnaires) are aligned with job analyses; they make clear and appropriate distinctions between creditable levels of qualifications	Not Met	<p>Citation: 5 USC 2301 (b)(1) Merit system principles (b) Federal personnel management should be implemented consistent with the following merit system principles: (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
<p>and do not contain in appropriate measures (e.g., knowledgeable peculiar to agency regulations or processes which could be learned relatively quickly). Hiring Management (when used) contained retrievable documentation that links job-related KSA's with a job analysis and the supplemental questions</p> <p>upon which applicants are evaluated.</p>		<p>Is citation valid? YES Was citation applied correctly? YES</p> <p><i>Citation: 5 USC 2301 (b)(2)</i> Merit system principles (b) Federal personnel management should be implemented consistent with the following merit system principles: (2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights. Is citation valid? MAYBE Was citation applied correctly? MAYBE - it is overly broad to apply directly to BPA cases.</p> <p><u>Presidential Memorandum – Improving the Federal Recruitment and Hiring Process, May 11, 2010</u> <u>Section 1. Directions to Agencies.</u> Agency heads shall take the following actions no later than November 1, 2010: (a) consistent with merit system principles and other requirements of title 5, United States Code, and subject to guidance to be issued by the Office of Personnel Management (OPM), adopt hiring procedures that: (1) eliminate any requirement that applicants respond to essay-style questions when submitting their initial application materials for any Federal job; Is citation valid? NO Was citation applied correctly? NO, this practice is not used at BPA.</p>
<p>Public notice and merit promotion vacancies meet legal and regulatory requirements, including posting on USAJobs. Length of open periods is appropriate to the type of positions announced and to the relevant applicant pools. Vacancies opening and closing periods are valid and adequately justified. Vacancy announcements include a definition of well qualified for CTAP/ICTAP eligibles in addition to identifying all required information from applicants and distinguished specialized experience that fits the applicant pool (meaning not to agency specific or restrictive thus limiting the qualified applicant pool).</p>	Not Met	<p><i>Citation: Qualification Standards, Policies Instructions, section E.</i> Is citation valid? CANNOT BE FOUND Was citation applied correctly? CANNOT BE FOUND</p> <p><i>Citation: 5 CFR 330.707 Exceptions to ICTAP selection</i> Is citation valid? NO Was citation applied correctly? NO</p> <p><i>Citation: Executive Order 13087</i> Is citation valid? YES Was citation applied correctly? YES</p> <p>Avue Comments: Qualification Standard citation is out of date. 5 CFR 330.707 is not on point. Executive order is appropriate. Avue Comments: BPA practice was to announce on USAJobs using one posting that listed both the DE and MP vacancy announcement number with links that took the applicant back to each respective vacancy posting on the BPA website . Depending on which link the applicant clicked on, they could either apply for the DE, the MP vacancy, or both. Having one vacancy announcement generated via for the USAJobs posting does not present this problem since the applicant responds to the system eligibility and attribute questions, and are then made available for the hiring categories for which they are qualified for based on responses.</p>
<p>Policies and procedures on acceptance and processing of applicants, are appropriate, specified clearly in applications, including from status vacancy announcements, and consistently applied. There is an active policy or standard operating procedure that contains information on accepting late applications from 10-point preference eligibles.</p>	Not Met	<p>Avue Comments: This is the report does not include a specific regulatory cite on the scoring issue for Category Rating referenced above. *Relevant regulatory the OPM Delegated Examining Operations Handbook, May 2007, Chapter 5. Defining quality categories.guidance for Category Rating is found at 5 USC 3319, 5 CFR 337, and</p>
<p>Delegated Examining and Merit Promotion case files are organized and readily available (with all information needed to reconstruct case files). In addition, supporting documentation is included in file along with timely and accurate notices of results.</p>	Met	NO CITATION

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
DE operations reflect adherence to the expectations of the Pledge to Applicants that enable rather than deter applicants from applying for vacancies (e.g., plain-language vacancy announcements with clear application procedures; meaningful definitions of qualifying specialized experience specific to positions advertised; clear descriptions of evaluations methods; timely applicant updates on status of applications; and timely hiring process).	Not Met	<p><i>Citation: Presidential Hiring Reform of 2010</i> Is citation valid? YES Was citation applied correctly? YES</p> <p><i>Citation: Departmental or OPM policies relating to Delegated Examining and Category Rating.</i> Is citation valid? NO DIRECT REFERENCE Was citation applied correctly? NO DIRECT REFERENCE Avue Comments: Vague reference to OPM Policies is open ended</p>
Training and comprehension: Federal staff members conducting competitive examining have a current DE certification from OPM and a clear understanding and applicability of internal and external recruitment process.	Not Met	<p>NO CITATION Note that at the time of the OPM audit, all BPA HR staff requiring DE certification were, in fact, certified.</p>
Recruitment activities use appropriate sources in an endeavor to achieve a diverse applicant pool from all segments of society.	Partially Met	<p>NO CITATION</p>
Late applications are appropriately reviewed to determine if they meet valid exceptions and are processed accordingly and consistently. In case-examining situations, late applications from 10-point preference eligibles are retained and referred for future vacancies as appropriate.	Met	<p>NO CITATION</p>
The application process complies with the merit system principles and related legal requirements. For example, appropriate qualification standards are used; applicants with comparable qualifications receive appropriate and comparable treatment.	Not Met	<p><i>Citation: 5 U.S.C. 2301 (b) (1) and (2)</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: Memorandum Guidance #10 (unable to locate)</i></p> <p><i>Citation: OPM Qualification Standards</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: DEU Handbook</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: Title 5 CFR 330</i> Is citation valid? No Was citation applied correctly? No Avue Comments: This is the entire Recruitment, Selection & Placement (General) Chapter and covers a variety of areas such as: Methods of Filing Vacancies; RPL; Restricting to Preference Eligibles; Restricting to Protect Competitive Principles; CTAP; ICTAP; and Prohibited Personnel Practices. This is NOT an appropriate citation for this finding.</p>
When a self-assessment rating instrument is used to rank candidates, applicant responses are checked against other application materials for evidence supporting applicant ratings. Appropriate rating	Not Met	<p><i>Citation: 5 USC 2301</i> Is citation valid? Yes Was citation applied correctly? Yes</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
adjustments are made and documented. Official transcripts or equivalent documentation support applicants who qualify based on education.		<p>Citation: 5 USC 2301 Is citation valid? Yes Was citation applied correctly? Yes</p> <p>Citation: Memorandum Guidance #10 (Unable to locate)</p> <p>Citation: OPM Qualification Standards Is citation valid? Yes Was citation applied correctly? Yes</p> <p>Citation: DEU Handbook Is citation valid? Yes Was citation applied correctly? Yes</p> <p>Citation: Title 5 CFR 330 Is citation valid? No Was citation applied correctly? No Avue Comments: Is the entire Recruitment, Selection & Placement (General) Chapter and covers a variety of areas such as: Methods of Filing Vacancies; RPL; Restricting to Preference Eligibles; Restricting to Protect Competitive Principles; CTAP; ICTAP; and Prohibited Personnel Practices for which there are no direct case citations regarding violations.</p>
Certification activities for displaced/surplus employees (ICTAP, CTAP and RPL) are documented and meet requirements, including second reviews and notification of otherwise-eligible ICTAP candidates found not well qualified.	Not Met	<p>Citation: 5 USC 2301 Is citation valid? No Was citation applied correctly? No Avue Comments: BPA has never conducted a RIF or otherwise had displaced employees for which this citation would apply.</p>
Minimum qualification determinations are documented and can be reconstructed. Applicable qualification standards are applied correctly.	Not Met	<p>Citation: 5 CFR 330.201(b) Is citation valid? Yes Was citation applied correctly? Yes</p> <p>Citation: 5 USC 2301 (b) (1) – Merit Systems Principles Is citation valid? Yes Was citation applied correctly? Yes</p>
Determinations regarding eligibility for veterans' preference (VP) and/or VEOA are properly made, and individuals with such preference are afforded their legal rights in recruitment, referral, consideration, and selection.	Not Met	<p>Citation: 5 CFR 300.103 – Job Analysis Is citation valid? No Was citation applied correctly? No Avue Comments: Refers to a basic requirement of a job analysis which is relevant to ensuring applicants are appropriately measured but not for applying minimum qualifications as outlined in the OPM Qualification Standards.</p> <p>Citation: 5 USC 3313 – Competitive Service - Registers Is citation valid? Yes Was citation applied correctly? Yes Avue Comments: Addresses competitive service and registers of eligibles.</p> <p>Citation: 5 CFR 250.101 – Personnel Management in Agencies Is citation valid? No Was citation applied correctly? No Avue Comments: This citation broadly addresses personnel management in agencies and not VP or VEOA requirements.</p> <p>Citation: 5 CFR 250.102 – Delegated Authorities Is citation valid? No</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
		<p>Was citation applied correctly? No</p> <p>Avue Comments: This citation addresses delegations of authority and not the required actions prescribed by DOE to certify eligible applicants correctly and document cases.</p> <p>Citation: 5 CFR 332.401 – Order on Registers</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 USC 2301 – Merit Systems Principles</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Certification procedures involving the "rule of three", category rating or internal placement procedures are properly followed and well documented. Selectees are qualified for positions.	Not Met	<p>Citation: 5 USC 2302 – Merit Systems Principles – Fair & Equitable Treatment</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Certificates are audited and documented by certified staff or trained contractors before appointees entrance on duty. Selections are properly made and actions such as declination or failure to respond are properly documented.	Not Rated	<p>Citation: DEOH, Chapter 6 – creating certificate of eligibles.</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Avue Comments: DOE pointed out that BPA omitted putting the Duty Location on referral lists and that is covered in this citation.</p>
Candidate's interview, selection, and placement practices are "neutral" and do not arbitrarily favor or disfavor specific candidates or types of applicants	Not Met	<p>Citation: 5 USC 2301(b)(1) – Merit Systems Principles</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 CFR 300.103 – Job Analysis</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 USC 2301(b)(2) – Merit Systems Principles – Fair & Equitable Treatment</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Decisions to use pay flexibilities for hiring (e.g., recruitment and relocation incentives and superior qualifications and special needs pay setting) are appropriately documented and justified accordingly.	Met	<p>Citation: 5 USC 1104(c) – Delegation of Authorities for Personnel Management</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 CFR 531.212 – Superior Qualifications and Special Needs Pay Authorizations</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Established procedures for objections and requesting veteran pass-overs are followed and appropriate action (if any) is taken.	Not Met	NO CITATION
Annual self-audits of DE activities have been conducted and performed by staff who are not involved with the DE operations and have current DE certifications.	Not Met	<p>Citation: Delegated Examining Operations Handbook, Chapter 7, section D.</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Who performs the self-review?</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
Appropriate corrective action is taken when cases of lost consideration or other types of violations are identified.	Not Met	NO CITATION
SF-50's and 52's are coded accurately and reflects all requirements in the Guide to processing personnel actions and the Guide to Personnel Data Standards. Official Personnel Folders have accurate documentation in file thus supporting the accession.	Met	NO CITATION
The DE coordinator submits accurate and timely quarterly workload reports via OPM's DE Information System.	Not Met	Citation: DEOH, Appendix C. Is citation valid? No; it should be Appendix M – Instructions for Completing the DE Quarterly Workload Report Form Was citation applied correctly? Appendix M is correctly applied.

Winn, Kim S (BPA) - NN-1

From: Young, Winston B (BPA) - NSSF-4
Sent: Wednesday, October 02, 2013 4:31 PM
To: Bell, Kevin (BPA) - N-4
Cc: Polizos, Vasia A (BPA) - NSSF-4
Subject: FW: Revised Analysis of DOE and OPM Reports
Attachments: BPA Audit Findings Analysis 10 01 2013.pdf

[Updated analysis of audit findings....](#)

From: Avue Co-CEOs [mailto:CEO@avuetech.com]
Sent: Wednesday, October 02, 2013 4:27 PM
To: Young, Winston B (BPA) - NSSF-4; Kundu, Sanjit K (BPA) - NSSF-4
Subject: Revised Analysis of DOE and OPM Reports

Sanjit and Winston,

Attached is an updated report regarding our analysis of the DOE and OPM reports. Sorry to trouble you but if you wouldn't mind sending it to whomever you sent the original report to, that would be great. Thanks very much.

Linda

Linda E. Brooks Rix and James D. Miller

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**BPA's DOE/OPM DE
Audit Analysis &
Recommendations**

September 27, 2013

The following pages contain an analysis of the OPM and DOE reports resulting from their respective audits of the Human Capital Management Program and Delegated Examining Unit of Bonneville Power Administration. The document is designed to focus on the most critical elements of the two reports as they relate to the assessment of the HCM program at BPA.

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This document contains an analysis by Avue Technologies Corporation of the policy issues addressed for the sole purpose of assisting its client in evaluating policy options. While Avue has substantial experience and expertise in matters of federal government workforce management, including with respect to applicable law and regulation, this analysis has not been prepared or reviewed by attorneys and is not intended to be used as a legal opinion with respect to any of the matters addressed.

The DOE Audit Finding with the Most Significant Adverse Impact on BPA

DOE rates BPA's classification program as 'Not Met' for classification accuracy¹ and DOE has revoked BPA's delegated classification authority as a result. DOE states "Of the positions reviewed, the majority were assigned incorrect grade levels. In many positions reviewed it was noted that **higher factor levels had been assigned to the position descriptions than warranted on the basis of the BPA HCM classifier identifying work performed at BPA, as being agency-level.**" [Emphasis added.] DOE then requires BPA to "Review all position descriptions associated with hiring cases between FY10 and FY13 and obtain new or modify position descriptions, as necessary, so that they adequately and accurately describes the work assigned to the position and performed by the employee. Prepare written evaluation statements to determine the correct pay plan, title, series, and grade of the position."

This is an impactful statement by DOE which could lower the grades of 1,331 positions at BPA currently classified as nonsupervisory GS-13s, 14s, and 15s. Avue identified, in its July 22, 2012 policy analysis report to BPA that sustaining these nonsupervisory grades required that Bonneville be defined as an 'agency' and not a 'field office' as DOE had begun characterizing BPA. The purpose of the Avue policy analysis document was to outline actions BPA could execute to sustain these grades using a highly expert classification process that would assert BPA meets the definition of 'agency' for position classification purposes and, at the same time, provide the documentation and position management practices necessary to support the grades of these positions. For Avue's July 2, 2013 meeting with COO Anita Decker, Avue provided updated statistics regarding the possible impact of DOE's characterization of BPA as a 'field office' rather than an independent agency.

If DOE's dilution of BPA's independent agency status is sustained, at least 500 of these positions would classify at *no higher than the GS-12 level*. Although personnel practices exist to minimize the impact on current incumbents of these positions, including flagging adversely impacted positions as 'incumbent only allocations', positions that are flagged in this manner would be abolished when the current incumbent vacates the position and the FTE is then reclassified to the lower grade. The adverse impact on BPA's ability to retain and recruit in an intensely competitive energy industry labor market is significant. Not only would compensation levels be much lower, the OPM-required qualification standards have much lower requirements resulting in a less-skilled talent pool and workforce. Career ladders for BPA employees would also be truncated and the number of available promotion opportunities so reduced as to become a serious impediment to employee retention.

DOE's finding that BPA has improperly evaluated positions as being "agency-level" is not a reflection of the accuracy of BPA's classification program. Instead it is a reflection of DOE's assertion that BPA is not an independent agency. If BPA is defined as an independent agency, the classification of these 1,331 positions is, in fact, accurate. DOE's revocation of BPA's classification authority rests solely on its unilateral and highly politicized dilution of BPA's status as an independent agency. Further, DOE based its finding on a targeted sampling of positions that allowed it to back into the adverse finding. The issue that BPA needs to address here is not the accuracy of its classification program. While improvements can be made in the program – such as instituting a common federal practice of supervisory recertification of position description accuracy – the core issue is whether or not BPA is an independent agency.

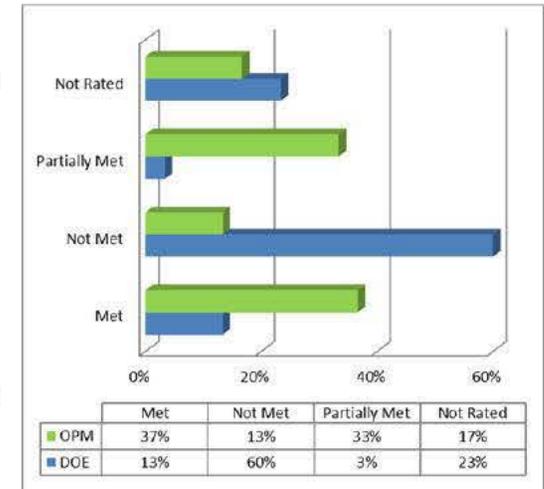
¹ See DOE HCMAP Report, Position Classification Critical Success Factor titled: Grades Properly Assigned to Positions and the Appropriate Classification Is Selected; Classification Adheres to Federal Laws, Rules, And Regulations, Page 44

The Substantive Differences between the OPM and DOE Audit Reports

The differences between the OPM and the DOE audit reports are striking. There are 30 total critical success factors in the combined OPM and DOE reports. Of the 30, DOE rated BPA as ‘Not Met’ on 18 of the 30, whereas OPM rated BPA as ‘Not Met’ on only 4 of the 30. Additionally, OPM was more likely to credit BPA with ‘Partially Met’ rather than ‘Not Met’ ratings on factors. On factors where OPM and DOE disagreed on BPA’s rating, OPM rated BPA more favorably 87% of the time.²

In theory, some differences could be based on different case reviews. However, expert HR practitioners who reviewed the findings, report that OPM did not find issues materially different than those presented by DOE. Even if DOE examined more cases, their findings are still in the same class as the findings by OPM – meaning finding more instances of the same problem would not support a more severe rating.

The DOE report does appear to focus its ratings more on adherence to DOE policy than laws or regulations. For example, DOE states that “BPA has **chosen** not to disseminate or follow written DOE orders and policy guidance, as well as any **verbal direction** from proper HR authorities in DOE Headquarters, associated with the implementation and execution of Federal HR activities.” *[Emphasis added.]* The emphasis on BPA’s *choices* runs through the report as it does in this broad-based finding. DOE’s reliance on “verbal direction” weakens its own position here as such direction cannot be considered a deviation from DOE policy. There is an existing memo of April 2, 2010 from COO Anita Decker to then DOE CHCO Michael Kane regarding the adoption of DOE HCM policies. The memo states that:



“The BPA Administrator has the delegated authority to determine, for all DOE HR directives, which directives, or parts thereof, are applicable to BPA, with two exceptions. First, HR directives documented in Appendix C to Order 251.1C are fully applicable to BPA. This list is limited to HR directives addressing the Senior Executive Service, Annual Confidential Financial Disclosure Reports, and the Drug-Free Federal Workplace program. Second, new or modified directives taking effect after July 20, 2009 will apply to BPA if by their terms they specifically state they are applicable to BPA. In determining whether a new or modified DOE HR directive should specifically state that it applies to BPA, the Department and BPA will consult on the needs of the Department as balanced against BPA’s unique statutory authority, business-like operating processes, and historic autonomy. If a current HR directive is not applicable to BPA, it is presumed that a modification of the directive will not be applicable to BPA absent a compelling Department need. If BPA’s systems and processes already address the concerns giving rise to a new Directive, it is presumed that the new directive will not apply to BPA absent a compelling Department need.”

² See Appendix A for a detailed grid of the findings and corrective actions. See Appendix B for the accuracy of the regulatory citations in the DOE report.

BPA was established in law as a separate organization with a mandate to implement its unique statutory authorities in a “sound and business-like manner.” 16 U.S.C. § 839f(b). BPA must act with the flexibility and efficiency of a business enterprise, while at the same time being accountable as a public organization. BPA was initially organized as a separate entity within the Department of the Interior, with a degree of autonomy compatible with the nature of the agency and the regional character of its programs and functions. Congress reaffirmed this independent arrangement in the Department of Energy Organization Act when it directed that BPA “shall be preserved as a separate and distinct organizational entity(y) within the Department” and that the Secretary’s functions shall be exercised by the Secretary “acting by and through” the Administrator. 42 U.S.C. § 7152(a)(2).

BPA has a permanent, indefinite appropriation in the form of the “BPA Fund.” 16 U.S.C. § 838i(a). BPA is fully self-financed and receives no direct appropriations for operations. BPA must generate sufficient revenues from the sale of power and transmission services to cover its total costs. This requires BPA to manage its financial affairs more like a business than a government agency. BPA’s human resource and labor relations policies, programs, systems and processes have been developed in support of these authorities and principles.

It would appear that DOE’s ratings, in large part, are critical of BPA’s authority to operate under a variety of delegations that recognize the independence of BPA and the Administrator’s ability to best determine how to accomplish the BPA mission. This is also in keeping with DOE’s assertion in the Position Management section of its report that BPA is not an independent agency. Failure to follow DOE policy, especially given BPA’s specific delegation to operate its HR program with independence, should not be the basis for DOE’s revocation of BPA personnel authorities or many of the ratings and conclusions reached in its audit report, which create the appearance of a catastrophic failure on the part of BPA’s HCM program. Further, DOE’s report requires BPA compliance with DOE policies that specifically exempt BPA (see DOE Order 331.1C, for example).

Actual violations of laws and regulations are the basis for the OPM report, which does not seek to force compliance with DOE policy. The contrast in findings illustrates the degree of DOE’s reliance on claims that BPA’s systemic problems are associated with a failure to follow DOE policy. The policies highlighted in the audit report’s findings would not correct the systemic causes of BPA’s non-compliance with the laws and regulations found in OPM’s audit report. Required actions focused on DOE policy adherence are merely procedural elements of the program that would not provide material value to BPA. In fact, many of the recommendations would create inefficiencies and further detract from BPA’s ability to meet the 80-day time-to-hire mandate in the President’s Hiring Process Improvement Memorandum. DOE’s reliance on deviations from its own policies, as the basis for BPA’s ratings, demonstrates the extent to which these negative ratings are without merit. Further, DOE’s assertions that “The level of effort needed to complete all required corrective actions is monumental and the road to full recovery will be extremely challenging,” are nothing more than hyperbole. As illustrated in OPM’s report, BPA’s implementation of the required training and their acquisition of the Avue talent acquisition system place BPA in a position to operate a compliant talent acquisition program. Compliance with DOE policy and guidance is contrary to the prior delegations and represents a clear subordination of BPA.

OPM and DOE both identified the following contributing factors leading to the conclusions in their respective reports. We include a column to show if the same contributing factor was identified by Avue’s report of its audit of BPA hiring actions in August of 2012.

DOE	OPM	Contributing Factor	Avue
✓	✓	Lack of federal HR competencies and experience.	✓
✓	✓	Raising the cut-off score for the highest quality category after the vacancy was posted.	✓
✓		Not following DOE orders, policy guidance, and verbal direction.	

DOE	OPM	Contributing Factor	Avue
✓		Slow implementing an automated hiring process.	✓
✓		Troubling number of errant personnel practices.	

The Relative Importance of Correcting Specific Hiring Problems Found in the OPM and DOE Audit Reports

It is very important to note that differences in actions taken by OPM versus DOE. OPM decertified individual staff members in BPA but not the Delegated Examining Unit (DEU) supporting BPA hiring. This would have enabled BPA to continue hiring using Avue as the alternative arrangement because Avue personnel are DE certified. In contrast, for the same infractions and regulatory violations that OPM found, DOE decertified BPA's DEU which has all but shut down hiring at BPA.

The table below outlines the underlying problems that need to be corrected in the procedures, practices, and policies of the hiring program in BPA.

The 'Impact' column is meant to illustrate the degree to which solving that particular underlying problem will help BPA move forward in a fully compliant manner. Items are assigned a score of a 1 (the greatest positive impact) through 5 (the least positive impact). The 'Priority' assigned is meant to illustrate the urgency of solving that problem so that hiring authorities can be restored and adhere to law and regulation. Items in this column are assigned a score of 1 (very urgent) through 5 (low priority). If an item is rated as -0-, it means that item has already been addressed.

An * next to the issue means that it is fully resolved and any future incidents are prevented by the rules engines in the Avue system. By implementing Avue, these issues would not recur again or, if individual HR practitioners attempt to do this in Avue, the issue would be flagged and escalated to management for resolution.

Notes regarding specific items follow this table.

Identified By:		Impact	Priority	Underlying Problem Identified
DOE	OPM			
✓	✓	1	1	Inconsistent application/applicant assessment of basic qualifications requirements.*
✓	✓	1	1	Overly restrictive selective placement (screen-out) factors.*
✓	✓	1	1	Using ranking KSAs as if they were screen-out factors for basic qualification determinations.*
✓	✓	1	1	No internal audit controls or accountability or internal quality controls on hiring actions.*
✓	✓	1	-0-	Raising cut-off scores for the highest quality group after the vacancy announcement is posted.* <u>1/</u>
✓	✓	1	1	Inaccurate veterans' preference adjudications.*

Identified By:		Impact	Priority	Underlying Problem Identified
DOE	OPM			
✓	✓	1	1	Superior qualifications appointments are not documented properly.
✓		2	2	Corrective actions from the 2010 audit report were not completed.
✓	✓	3	3	BPA does not clear the DOE reemployment priority lists (RPL) prior to making selections on new vacancies.* <u>2/</u>
	✓	5	5	Print the text in the vacancy announcement rather than use links to online information sources.* <u>3/</u>
✓		5	5	BPA hires contractors in over 50% of the cases audited. <u>4/</u>
✓	✓	5	5	BPA “continues to use” or “inappropriately encourages” narrative responses to KSAs.* <u>5/</u>
✓	✓	5	5	BPA does not request college transcripts if the applicant has already held that position another agency. * <u>6/</u>
✓	✓	5	-0-	The form BPA uses for collection of RSNO data has not been approved by OMB. * <u>7/</u>

Notes:

- 1/ This was formally addressed in May of 2012; however, DOE maintains that the waiver process is not appropriate whereas OPM requires that if the waiver process is to be used, it be documented in BPA policy.
- 2/ BPA has never had a need to clear an RPL because it has never had a reduction-in-force or other layoff action. DOE is requiring BPA to use its RPL and by that requirement is extending the boundary of DOE’s RPL. This allows DOE to ensure that BPA vacancies are used to fill displaced employees who were displaced by virtue of the actions of other DOE components.
- 3/ Links are prevalent in all federal vacancy announcements including those posted by OPM. The links are one way to meet the requirements of the President’s Hiring Process Improvement Memorandum to reduce the length of vacancy announcements. In one example, where BPA posted a job using links, the vacancy announcement was eight pages long. By putting text in instead of links, the announcement was made three pages longer.
- 4/ This is not a regulatory violation. It appears that DOE is making a case that BPA uses overly restrictive criteria in vacancy announcements to give preferential treatment to contractors and exclude applicants without BPA experience from meeting basic qualifications. This is a highly subjective finding.
- 5/ This is focused on BPAs requirement that applicants provide KSA narrative justifications on submitting their initial applications. The President’s Hiring Process Improvement Memorandum prohibits requiring narratives until after the applicant has been determined to be at least basically qualified for the position. In the prior manual application process, applicants did not have a two-part process which meant they responded in the ‘initial application.’ DOE components currently use this language in their initial application process: *“Your application and resume should demonstrate that you possess the following knowledge, skills and abilities (KSAs). Do not provide a separate narrative written statement. Rather, you must describe in your application how your past work experience demonstrates that you possess the KSAs identified below. Cite specific examples of employment or experience contained in your resume and describe how this experience has prepared you to successfully perform the duties of this position. DO NOT write “see resume” in your application!”* This would meet OPM’s definition of ‘inappropriately encouraging’ applicants. It appears DOE should resolve this on a Department-wide basis.
- 6/ This requires BPA to get college transcripts from applicants to determine if the applicant meets any education requirements mandated by OPM qualification standards, even if another agency, by appointing that applicant to a job in the same occupational series, has already done so. This is redundant work as a practice and is contrary to requirements, such as in the President’s Hiring Process Improvement Memorandum, which requires such proof documents be submitted only at the time the applicant is successfully selected and prior to the hire date.
- 7/ The form BPA uses in Avue for all applications has been approved by OMB.

The Most Interesting Element of Both Reports

On July 15, 2013, the DOE IG's Management Alert, asserted that, *"Although only preliminary, we have determined that Bonneville engaged in prohibited personnel practices in 65 percent (95 of 146 cases) of its competitive recruitments conducted from November 2010 to June 2012."* Neither OPM's or DOE's report contained a finding of a PPP.

To find a PPP, "An employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:"³

- (4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;
- (5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
- (6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
- (11) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement;
- (12) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title. This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

It is important to note that a PPP is not the same as a Merit System violation. To demonstrate a PPP occurred, an individual with the authority to take a personnel action must have acted in a manner that meets the criteria of at least one of the 12 prohibited personnel practices. As reported in its August 26, 2012 report, Avue found, in its audit of BPA cases where veterans applied and the cutoff scores were raised after the vacancy was posted, that:

"Although the practice, on the surface, might appear alarming, examination of the problem in more detail, in particular the statistics from cases ... reveals that no pattern of adverse impact emerges regarding veterans. In fact, of the 50 cases, only 11 affected veterans leaving 78% affecting only non-veterans... The insertion of cut-off scores was a practice to help reduce the BQ group to a manageable size rather than an attempt to disqualify veterans or to circumvent veteran's preference."

OPM's report states it is the competency level of the HR staff that is the likely root cause of the regulatory findings in their report. OPM states:

While we acknowledge BPA faces challenges resulting from considerable transition in HR staff over the past few years, we believe competency gaps among HR staff members are chiefly responsible for the problems we identified. We are also concerned by the lack of a

³ Title 5 - Government Organization And Employees, Part Iii - Employees, Subpart A - General Provisions, Chapter 23 - Merit System Principles, Section 2302 - Prohibited Personnel Practices

system of accountability, including quality controls and competency assessments for HR staff, which we believe exacerbate these problems. We are encouraged by steps you and your staff have taken since our evaluation began to address needed improvements, notably, the identification of appropriate training and developmental opportunities for the staff.

The root cause of DOE's findings are similarly are limited to:

Over the past few years, BPA has chosen to hire individuals without any prior Federal HR knowledge or experience into key HR management positions and in HR staff specialist positions... BPA has chosen not to disseminate or follow written DOE orders and policy guidance, as well as any verbal direction from proper HR authorities in DOE Headquarters, associated with the implementation and execution of Federal HR activities.... BPA has been slow in implementing an effective automated hiring process, thus having to rely on cumbersome paper-based manual processes.

Three separate reviews by, three different organizations, all conducted by federal HR experts, failed to confirm the IG's preliminary determination. Allegations that violations of category rating and other hiring procedural and regulatory errors were the result of HR specialists, hiring managers, or BPA executives engaging in Prohibited Personnel Practices, are simply unfounded.

Appendix A: Comparison of DOE and OPM Findings

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
Documented job-analysis process that are valid (as defined in the Uniform Guidelines) are used as a basis to identify objectives, assessable KSA's and/or competencies appropriate to the positions being filled, including any selective placement factors for both Merit Promotion and Delegated Examining. In addition to the Job Analysis, the appropriate qualification standard should be included in the case examining file.	Not Met	Met	DOE: Required Action: Develop job analysis and crediting plans that have a rational relationship between performance in the position to be filled and the employment practice used. Use certification requirements that are not overly restrictive so that competition is fair and open. Discontinue the practice of eliminating candidates from consideration for failing to identify or address a particular knowledge, skills and/or ability. Required Action: Include a signed copy of a job analysis and crediting plan in all delegated examining and merit promotion case files. Rate and rank candidates using valid job analysis that are conducive to the Uniform Guidelines. Citation: 5 USC 2301(b)(1) and 5 CFR 300.103(a) and 5 CFR 300.103(b). OPM: NO REQUIRED ACTION	Avue Comments: This "Required Action" is automatically generated by the Avue System for all future BPA Vacancy Postings. The Job Analysis methodology used within Avue provides for creation of a Job Analysis worksheet at the time that the position description for the vacancy is created with system generated KSAs that are directly related to the duties of the position to be filled.
Assessment criteria (e.g., crediting plans, occupational questionnaires) are aligned with job analyses; they make clear and appropriate distinctions between creditable levels of qualifications and do not contain in appropriate measures (e.g., knowledgeable peculiar to agency regulations or processes which could be learned relatively quickly). Hiring Management (when used) contained retrievable documentation that links job-related KSA's with a job analysis and the supplemental questions upon which applicants are evaluated.	Not Met	Partially Met	DOE: Required Action: Ensure that all rating factors are measurable. Rate, rank and refer candidates solely on the basis of the relative ability, knowledge and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301 (b) (2) and 5 U.S.C. 2301 (b)(1) Required Action: Discontinue the practice of requiring applicants to respond to KSA's with written narratives at the time of application. Citation: Improving the Federal Recruitment and Hiring Process, dated May 11, 2010. OPM: HR STAFF MEMBERS NEED TRAINING SO THAT THEY CAN RELIABLY AND COMPETENTLY DEVELOP GOOD CREDITING PLANS.	Avue Comments: This "Required Action" is automatically generated by the Avue System for all future BPA Vacancy Postings. The Crediting Plan is "system generated" around the KSAs selected for use with the Vacancy Announcement. KSA narratives are NOT required unless specifically selected by the vacancy creator (HR specialist).
Public notice and merit promotion vacancies meet legal and regulatory requirements, including posting on USAJobs. Length of open periods is appropriate to the type of positions announced and to the relevant applicant pools. Vacancies opening and closing periods are valid and adequately justified. Vacancy announcements include a definition of well qualified for CTAP/ICTAP eligibles in addition to identifying all required information from applicants and distinguished specialized experience that fits the applicant pool (meaning not to agency specific or restrictive thus limiting the qualified applicant pool).	Not Met	Partially Met	DOE: Required Action: Specialized experience statements: All specialized experience statements should be clearly distinguished per grade level. Each grade level should have a meaningful level of experience required for each position, at each grade level, keeping in mind the requirements highlighted in Qualification Standards, Policies Instructions, section E. Citation: Qualification Standards, Policies Instructions, section E. DOE: Required Action: Prepare vacancy announcements consistent with public notice requirements. Ensure announcements include the number of positions to be filled (or a standard statement, e.g., number of positions subject to change) and the appropriate Equal Employment Opportunity Statement that includes sexual orientation as prescribed in 5 CFR 330.707 and Executive Order 13087. Avoid using language not relevant to the competitive process, e.g., Time in Grade on public notice vacancy announcements. Ensure merit promotion announcements clearly identify the area of consideration and the definition of well qualified as it pertains to CTAP/ICTAP eligibles. Citation: 5 CFR 330.707 and Executive Order 13087. OPM: RECOMMEND ISSUING SEPARATE JOAS FOR MP AND DE. REQUIRED ACTION: JOA TEMPLATE; ACTION PLAN TO OPM TO ENSURE COMPLIANCE OPM citations: 5 CFR 330.104 and 5 CFR 250.103	Avue Comments: This "Required Action" is automatically generated by the Avue System for all future BPA Vacancy Postings. The Avue systems allows the user to issue one vacancy announcement that will field candidates for all of the relevant hiring authorities based on their attributes and eligibilities. The vacancy announcements contain the necessary information for ALL categories of applicants, and the system determines if they should be considered under MP or DE processes, and takes the "guess work" out of that process for the applicant.
Policies and procedures on acceptance and processing of applications, including from status applicants, are appropriate, specified clearly in vacancy announcements, and consistently applied. There is an active policy or standard operating procedure that contains information on accepting late applications from 10-point preference eligibles.	Not Met	Partially Met	DOE: Required Action: Immediately discontinue any practice of altering the cut-off score after the job announcement has been posted. BPA's operating procedural guidance must be re-written to comply with Federal regulations and agency policy regarding the acceptance of applications and the Category Rating process. Consult and work with the Office of Human Capital Management, Human Capital Policy Division (HC-11) to ensure that policies are aligned with the Department's, OPM and Title 5 regulatory requirements. OPM: ESTABLISH WRITTEN PROCEDURES TO 'RECONSIDER RATING DECISIONS' AND FOR 'STAFF INVOLVED IN DE TO NOTIFY SUPERVISORS IN WRITING OF INTENT TO APPLY...' OPM Citations: (1) 5 USC 1104(B)(1), 5 CFR 250.102 AND 5 CFR	
Delegated Examining and Merit Promotion case files are organized and readily available (with all information needed to reconstruct case files). In addition, supporting documentation is included in file along with timely and accurate notices of results.	Met	Met	DOE: Most Delegated Examining and Merit Promotion case files were organized and readily available for review. Most supporting documentation was obtainable, thus giving the HCMAP team the ability to reconstruct cases where applicable. There were however, many cases that the team was unable to render a conclusion, although they were reconstructable. OPM: The examining process can be fully reconstructed. Documentation stored in automated staffing systems is accessible...	

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
DE operations reflect adherence to the expectations of the Pledge to Applicants that enable rather than deter applicants from applying for vacancies (e.g., plain-language vacancy announcements with clear application procedures; meaningful definitions of qualifying specialized experience specific to positions advertised; clear descriptions of evaluations methods; timely applicant updates on status of applications; and timely hiring process).	Not Met	Not Rated	DOE: Required Action: BPA must adhere to the Pledge to Applicants, the Presidential Hiring Reform of 2010, and to any Departmental or OPM policies relating to Delegated Examining and Category Rating.	
Training and comprehension: Federal staff members conducting competitive examining have a current DE certification from OPM and a clear understanding and applicability of internal and external recruitment process.	Not Met	Met	DOE: Required Action: Direct all HR Specialist's that are involved with every aspect of Delegated Examining and Merit Promotion to take the following courses (at minimum): Basic Staffing, Classification, Job Analysis and KSA Examining, Delegated Examining Training, Qualification Analysis and Pay Setting. OPM: PROVIDE TRAINING (BECAUSE INDIVIDUAL DE CERTIFICATIONS WERE REVOKED)	
Recruitment activities use appropriate sources in an endeavor to achieve a diverse applicant pool from all segments of society.	Partially Met	Not Rated	DOE: Recommendation: Work with HC-13, Employment Solutions Division, in order to receive information on the best approach to reach more minority candidates, disabled candidates, and diverse applicants from all segments of society.	Avue Comment: There are over 1,600 recruitment sources available within Avue for use that will allow BPA to reach out to a wide – range of applicant pools to meet diversity recruiting needs.
Late applications are appropriately reviewed to determine if they meet valid exceptions and are processed accordingly and consistently. In case examining situations, late applications from 10-point preference eligibles are retained and referred for future vacancies as appropriate.	Met	Met	DOE: BPA handles late 10-point preference applicants accordingly. The team found no significant issues in this area.	
The application process complies with the merit system principles and related legal requirements. For example, appropriate qualification standards are used; applicants with comparable qualifications receive appropriate and comparable treatment.	Not Met	Not Rated	DOE: Required Action: Ensure that all rating factors are measurable. Rate, rank and refer candidates solely on the basis of the relative ability, knowledge and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301 (b) (2) and 5 U.S.C. 2301 (b)(1). DOE: Required Action: Discontinue altering or modifying the cut-off score after the job opportunity announcement has been posted. Begin to conduct qualification analysis base on the OPM standards. Discontinue the process of using the minimum qualification process as a method to determine who will be among the best qualified. Citation: Memorandum Guidance #10, OPM Qualification Standards, Delegated Examining Handbook, Title 5 CFR 330 and 5 USC 2301.	Avue Comment: This practice was “pre-Avue” implementation at BPA. The “Category Rating Rules” are defined within the Avue system, and applicants are grouped into the respective categories based on their overall scores, and Veteran’s Preference is then applied. The Referral List functionality employees a “list locking” mechanism that ensures that eligible veterans must be adjudicated prior to non-veteran applicants being considered.
When a self-assessment rating instrument is used to rank candidates, applicant responses are checked against other application materials for evidence supporting applicant ratings. Appropriate rating adjustments are made and documented. Official transcripts or equivalent documentation support applicants who qualify based on education.	Not Met	Met	DOE: Recommendation: The HCMAP team strongly recommends the consideration of an automated system in order to facilitate a seamless process of accepting and reviewing applications. DOE: Required Action: Discontinue altering or modifying the cut-off score (best qualified category) after a job announcement has been posted. Begin to conduct qualification analysis based on the OPM standards. Discontinue the process of using the minimum qualification process as a method to determine who will be among the best qualified. Citation: Memorandum Guidance #10, OPM Qualification Standards, Delegated Examining Handbook, Title 5 CFR 330 and 5 USC 2301.	Avue Comment: This practice was “pre-Avue” implementation at BPA. The “Category Rating Rules” are defined within the Avue system, and applicants are grouped into the respective categories based on their overall scores, and Veteran’s Preference is then applied. The Referral List functionality employees a “list locking” mechanism that ensures that eligible veterans must be adjudicated prior to non-veteran applicants being considered.
Certification activities for displaced/surplus employees (ICTAP, CTAP and RPL) are documented and meet requirements, including second reviews and notification of otherwise-eligible ICTAP candidates found not well qualified.	Not Met	Partially Met	DOE: Required Action: The Department has created a single Reemployment Priority Lists based on geographic locations for which all components within the local commuting area must clear. Case files must be indicative of the RPL clearance. As such, until BPA begins to use the Department’s intranet sites, they must contact someone in HC-11 to clear RPL before posting any vacancy positions. Citation: 5 CFR 330.201 (b). OPM: MUST MAINTAIN VERIFICATION OF CLEARANCE OF THE AGENCY RPL OPM Citations: 5 CFR 330.201C AND 5 CFR 330.210(D)	

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
Minimum qualification determinations are documented and can be reconstructed. Applicable qualification standards are applied correctly.	Not Met	Partially Met	DOE: Required Action: Ensure that all candidates' qualifications are reviewed and assessed in accordance with the Qualification Standards and any other rating criterion that is directly related to the position being filled. Citation: 5 U.S.C 2301 (b) (1) 5 CFR 300.103. OPM: BPA HR STAFF MEMBERS NEED TRAINING	Avue Comment: This finding as outlined above was "pre-Avue" implementation at BPA. Applicants applying for vacancies that have been advertised within the Avue system are all evaluated by the same "objective systems" criteria when it comes to making Basic Qualifications determinations. All applicants are required to possess one year or more of Specialized Experience in order to meet Basic Qualifications.
Determinations regarding eligibility for veterans' preference (VP) and/or VEOA are properly made, and individuals with such preference are afforded their legal rights in recruitment, referral, consideration, and selection.	Not Met	Partially Met	DOE: Required Action: Certify eligible applicants by grade level and numerical rating (when applicable) augmented by veterans' preference status accordingly. Ensure that veterans' preference is applied and annotated accurately whenever applicable. Citation: 5 USC 3313; 5 CFR 250.101; 5 CFR 250.102 and 5 CFR 332.401. DOE: Required Action: Ensure hiring cases are well documented to demonstrate that all applicants have been treated fairly and equitably during all phases of the hiring process. Citation: 5 USC 2301; 5 USC 2302. OPM: HRMIS CORRECTED IN 2 CASES; NO FURTHER RECOMMENDED OR REQUIRED ACTION	
Certification procedures involving the "rule of three", category rating or internal placement procedures are properly followed and well documented. Selectees are qualified for positions.	Not Met	Met	DOE: Required Actions: Ensure that all candidates' qualifications are reviewed and assessed in accordance with the Qualification Standards and any other rating criterion that is directly related to the position being filled. Citation: 5 U.S.C 2301 (b) (1) 5 CFR 300.103.	
Certificates are audited and documented by certified staff or trained contractors before appointees entrance on duty. Selections are properly made and actions such as declination or failure to respond are properly documented.	Not Met	Met	DOE: Required Actions: Rate, rank and refer candidates solely on the basis of the relative ability, knowledge and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301 (b) (2) and 5 U.S.C. 2301 (b) (1).	
Candidate's interview, selection, and placement practices are "neutral" and do not arbitrarily favor or disfavor specific candidates or types of applicants	Not Met	Not Rated	In a majority of the cases reviewed BPA failed to treat many candidates consistently, fairly, and equitably which resulted in lost consideration for a substantial number of applicants; and a missed opportunity to compete and interview for vacant positions. DOE: Required Actions: Ensure that all candidates' qualifications are reviewed and assessed in accordance with the Qualification Standards and any other rating criterion that is directly related to the position being filled. Citation: 5 U.S.C. 2301(b)(1) 5 CFR 300.103. DOE: Required Actions: Rate, rank and refer candidates solely on the basis of the relative ability, knowledge, and skills of the position, after fair and open competition. Citation: 5 U.S.C. 2301(b)(2) and 5 U.S.C. 2301 (b)(1).	Avue Comment: This practice was "pre-Avue" implementation at BPA. Under the Avue System, all candidates are evaluated consistently by the system, applying the correct OPM qualification standards and other valid and merit-based criteria uniformly. Not only is this highly effective in creating a merit-based process, any attempts by HR or hiring managers to override such determinations are flagged and can be escalated for review by subject-matter experts.
Decisions to use pay flexibilities for hiring (e.g., recruitment and relocation incentives and superior qualifications and special needs pay setting) are appropriately documented and justified accordingly.	Met	Partially Met	DOE: Required Action: BPA must discontinue the practice of offering recruitment incentives for positions that are easily recruited for and available to fill without past recruitment difficulties, i.e., Human Resource Specialist. DOE: Required Action: Discontinue the practice of using superior qualifications appointment for the purpose of setting pay at a rate comparable with the appointee's non-Federal salary. Clearly document why the appointee's qualifications were truly superior to that of others in the field or factors supporting the superior qualifications of the candidate(s). Citation: 5 U.S.C. 1104(c) and 5 CFR 531.212. DOE: Required Action: Discontinue the practice of using superior qualifications appointment for the purpose of setting pay at a rate comparable with the appointee's non-Federal salary. Clearly document why the appointee's qualifications were truly superior to that of others in the field or factors supporting the superior qualifications of the candidate(s). Citation: 5 U.S.C. 1104(c) and 5 CFR 531.212. DOE: Recommendation: Ensure that all recruitment incentives are appropriately justified and consistently at all times. To facilitate this process, conduct (or continue to conduct) workforce and trend analysis to determine the most appropriate grade levels to fill all positions and the best sources of applicants. Develop a recruitment strategy which includes plans to conduct targeted outreach and recruitment activities to ensure a viable and manageable intensive pool of interested, diverse, and well qualified applicants. OPM: ESTABLISH A MECHANISM TO PLAN, REVIEW, AND DOCUMENT... OPM Citation: 5 CFR 531.212 – Superior Qualifications and Special Needs Pay Authorizations	
Established procedures for objections and requesting veteran pass-overs are followed and appropriate action (if any) is taken.	Not Met	Met	DOE: Required Action: Consult and work with the Office of Human Capital Management, Human Capital Policy Division (HC-11) to ensure that BPA HCM guidance papers are aligned with the Department's, OPM and Title 5 regulatory requirements.	

Expected Outcomes of Critical Success	DOE	OPM	DOE and OPM Findings/Required or Recommended Actions	Avue Comments
Annual self-audits of DE activities have been conducted and performed by staff who are not involved with the DE operations and have current DE certifications.	Not Met	Not Met	Required Action: Conduct the Annual Self Audits as required by the Office of Personnel Management's Delegated Examining Handbook. Citation: Delegated Examining Operations Handbook, Chapter 7, section D. OPM: PROVIDE A PLAN TO MEET REQUIREMENT TO CONDUCT ANNUAL INTERNAL DE AUDITS	
Appropriate corrective action is taken when cases of lost consideration or other types of violations are identified.	Not Met	Met	DOE: As soon as an illegal appointment has been identified, contact the Office of HC-11 for remedial guidance. In addition, in cases where lost consideration is evident, immediately contact those candidates who failed to receive appropriate consideration and offer priority consideration and/or placement where appropriate.	
SF-50's and 52's are coded accurately and reflects all requirements in the Guide to processing personnel actions and the Guide to Personnel Data Standards. Official Personnel Folders have accurate documentation in file thus supporting the accession.	Met	Partially Met	DOE: Overall, the SF-50's are coded with the correct NOA and legal authorities. A significant improvement from the 2010 HCMAP audit. OPM: IDENTIFY CAUSE OF NONCOMPLIANCE TO GPPA; SUBMIT PLAN. RECOMMEND INTERNAL TRAINING AND INTERNAL QA OPM Citations: 5 CFR 293.303(E) AND 5 CFR 250.103	
The DE coordinator submits accurate and timely quarterly workload reports via OPM's DE Information System.	Not Met	Not Rated	DOE: Required Action: Begin to issue the Delegated Examining Quarterly workload reports to the Agency's Delegated Examining Coordinator in a timely manner. Citation; Delegated Examining Operations Handbook, Appendix C.	
OPM Report, Appendix B, Page 5 of 15, #5: Applicants may apply by submitting a resume in the format of their choosing...Applicants are not requested or required to provide written essays or narratives at the initial stage of the process.	Not Rated	Partially Met	OPM: UPDATE JOA TEMPLATES AND ASSESSMENT TOOLS TO ELIMINATE REQUIREMENTS TO PROVIDE EXPLANATIONS FOR EMPLOYMENT GAPS AS PART OF INITIAL APPLICATION PROCESS.	
OPM Report, Appendix B, Page 7 of 15, #8Qualifications are uniformly applied...determinations are documented and accurately made.	Not Rated	Not Met	OPM: RECONSTRUCT ALL STAFFING AND PERSONNEL ACTIONS TAKEN SINCE JUNE 30, 2011	
OPM Report, Appendix B, Page 10 of 15, #13Certification and merging procedures are appropriate and consistent with vet pref laws and agency policies	Not Rated	Not Met	OPM: TAKE CORRECTIVE ACTIONS IDENTIFIED IN APPENDIX C CASE LISTINGS 1 AND 2 (OF FINAL REPORT)	
OPM Report, Appendix B, Page 10 of 15, #15Selections are properly made from candidates in the highest quality category on a certificate of eligibles, IAW vet pref laws.	Not Rated	Partially Met	OPM: AS PREVIOUSLY MENTIONED, INAPPROPRIATE CERTIFICATION PROCEDURES LED TO IMPROPER SELECTIONS.	
OPM Report, Appendix B, Page 11 of 15, #16 Applicants are notified of the status of their applications at key stages...	Not Rated	Met		
OPM Report, Appendix B, Page 13 of 15, #23An accountability system is in place to assure compliance with MSPs and legal, regulatory, and Interagency Delegated Examining Agreement...	Not Rated	Not Met	OPM: ...LITTLE EVIDENCE THAT BPA ENSURED ITS PROCESSES ARE EFFICIENT AND EFFECTIVE FOR COMPETITIVE EXAMINING. BPA DID MONITOR TIME TO FILL WITH END-TO-END NHQ PROCESS...	
OPM Report, Appendix B, Page 14 of 15, #25Security of examining records is proper; Privacy Act information is properly maintained and safeguarded...	Not Rated	Met		

Appendix B: Review and Analysis of Regulatory Citations in the DOE DEU Audit of BPA

Avue reviewed all of the regulatory citations in the DOE audit report. The review determined that on 10 occasions, DOE cited the incorrect regulation in asserting its findings. In two additional cases, DOE linked Merit System Principles to its assessments which, given the necessarily board-based and goal-oriented nature of Merit System Principles, make it difficult to identify or correct a specific regulatory violation.

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
Documented job-analysis process that are valid (as defined in the Uniform Guidelines) are used as a basis to identify objectives, assessable KSA's and/or competencies appropriate to the positions being filled, including any selective placement factors for both Merit Promotion and Delegated Examining. In addition to the Job Analysis, the appropriate qualification standard should be included in the case examining file.	Not Met	<p>Citation: 5 USC 2301 (b)(1) Merit system principles (b) Federal personnel management should be implemented consistent with the following merit system principles: (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. Is citation valid? MAYBE Was citation applied correctly? MAYBE - it is overly broad to apply directly to BPA cases.</p> <p>Citation: 5 CFR 300.103 (a) Job analysis. Each employment practice of the Federal Government generally, and of individual agencies, shall be based on a job analysis to identify: (1) The basic duties and responsibilities; (2) The knowledges, skills, and abilities required to perform the duties and responsibilities; and (3) The factors that are important in evaluating candidates. The job analysis may cover a single position or group of positions, or an occupation or group of occupations, having common characteristics. Is citation valid? YES Was citation applied correctly? YES</p> <p>Citation: 5 CFR 300.103 (b) Relevance. (1) There shall be a rational relationship between performance in the position to be filled (or in the target position in the case of an entry position) and the employment practice used. The demonstration of rational relationship shall include a showing that the employment practice was professionally developed. A minimum educational requirement may not be established except as authorized under section 3308 of title 5, United States Code. (2) In the case of an entry position the required relevance may be based upon the target position when— (i) The entry position is a training position or the first of a progressive series of established training and development positions leading to a target position at a higher level; and (ii) New employees, within a reasonable period of time and in the great majority of cases, can expect to progress to a target position at a higher level. Is citation valid? YES Was citation applied correctly? YES</p>
Assessment criteria (e.g., crediting plans, occupational questionnaires) are aligned with job analyses; they make clear and appropriate distinctions between creditable levels of qualifications	Not Met	<p>Citation: 5 USC 2301 (b)(1) Merit system principles (b) Federal personnel management should be implemented consistent with the following merit system principles: (1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
<p>and do not contain in appropriate measures (e.g., knowledgeable peculiar to agency regulations or processes which could be learned relatively quickly). Hiring Management (when used) contained retrievable documentation that links job-related KSA's with a job analysis and the supplemental questions</p> <p>upon which applicants are evaluated.</p>		<p>Is citation valid? YES Was citation applied correctly? YES</p> <p><i>Citation: 5 USC 2301 (b)(2)</i> Merit system principles (b) Federal personnel management should be implemented consistent with the following merit system principles: (2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights. Is citation valid? MAYBE Was citation applied correctly? MAYBE - it is overly broad to apply directly to BPA cases.</p> <p><u>Presidential Memorandum – Improving the Federal Recruitment and Hiring Process, May 11, 2010</u> <u>Section 1. Directions to Agencies.</u> Agency heads shall take the following actions no later than November 1, 2010: (a) consistent with merit system principles and other requirements of title 5, United States Code, and subject to guidance to be issued by the Office of Personnel Management (OPM), adopt hiring procedures that: (1) eliminate any requirement that applicants respond to essay-style questions when submitting their initial application materials for any Federal job; Is citation valid? NO Was citation applied correctly? NO, this practice is not used at BPA.</p>
<p>Public notice and merit promotion vacancies meet legal and regulatory requirements, including posting on USAJobs. Length of open periods is appropriate to the type of positions announced and to the relevant applicant pools. Vacancies opening and closing periods are valid and adequately justified. Vacancy announcements include a definition of well qualified for CTAP/ICTAP eligibles in addition to identifying all required information from applicants and distinguished specialized experience that fits the applicant pool (meaning not to agency specific or restrictive thus limiting the qualified applicant pool).</p>	Not Met	<p><i>Citation: Qualification Standards, Policies Instructions, section E.</i> Is citation valid? CANNOT BE FOUND Was citation applied correctly? CANNOT BE FOUND</p> <p><i>Citation: 5 CFR 330.707 Exceptions to ICTAP selection</i> Is citation valid? NO Was citation applied correctly? NO</p> <p><i>Citation: Executive Order 13087</i> Is citation valid? YES Was citation applied correctly? YES</p> <p>Avue Comments: Qualification Standard citation is out of date. 5 CFR 330.707 is not on point. Executive order is appropriate. Avue Comments: BPA practice was to announce on USAJobs using one posting that listed both the DE and MP vacancy announcement number with links that took the applicant back to each respective vacancy posting on the BPA website . Depending on which link the applicant clicked on, they could either apply for the DE, the MP vacancy, or both. Having one vacancy announcement generated via for the USAJobs posting does not present this problem since the applicant responds to the system eligibility and attribute questions, and are then made available for the hiring categories for which they are qualified for based on responses.</p>
<p>Policies and procedures on acceptance and processing of applicants, are appropriate, specified clearly in applications, including from status vacancy announcements, and consistently applied. There is an active policy or standard operating procedure that contains information on accepting late applications from 10-point preference eligibles.</p>	Not Met	<p>Avue Comments: This is the report does not include a specific regulatory cite on the scoring issue for Category Rating referenced above. *Relevant regulatory the OPM Delegated Examining Operations Handbook, May 2007, Chapter 5. Defining quality categories.guidance for Category Rating is found at 5 USC 3319, 5 CFR 337, and</p>
<p>Delegated Examining and Merit Promotion case files are organized and readily available (with all information needed to reconstruct case files). In addition, supporting documentation is included in file along with timely and accurate notices of results.</p>	Met	NO CITATION

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
DE operations reflect adherence to the expectations of the Pledge to Applicants that enable rather than deter applicants from applying for vacancies (e.g., plain-language vacancy announcements with clear application procedures; meaningful definitions of qualifying specialized experience specific to positions advertised; clear descriptions of evaluations methods; timely applicant updates on status of applications; and timely hiring process).	Not Met	<p><i>Citation: Presidential Hiring Reform of 2010</i> Is citation valid? YES Was citation applied correctly? YES</p> <p><i>Citation: Departmental or OPM policies relating to Delegated Examining and Category Rating.</i> Is citation valid? NO DIRECT REFERENCE Was citation applied correctly? NO DIRECT REFERENCE Avue Comments: Vague reference to OPM Policies is open ended</p>
Training and comprehension: Federal staff members conducting competitive examining have a current DE certification from OPM and a clear understanding and applicability of internal and external recruitment process.	Not Met	<p>NO CITATION Note that at the time of the OPM audit, all BPA HR staff requiring DE certification were, in fact, certified.</p>
Recruitment activities use appropriate sources in an endeavor to achieve a diverse applicant pool from all segments of society.	Partially Met	NO CITATION
Late applications are appropriately reviewed to determine if they meet valid exceptions and are processed accordingly and consistently. In case-examining situations, late applications from 10-point preference eligibles are retained and referred for future vacancies as appropriate.	Met	NO CITATION
The application process complies with the merit system principles and related legal requirements. For example, appropriate qualification standards are used; applicants with comparable qualifications receive appropriate and comparable treatment.	Not Met	<p><i>Citation: 5 U.S.C. 2301 (b) (1) and (2)</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: Memorandum Guidance #10 (unable to locate)</i></p> <p><i>Citation: OPM Qualification Standards</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: DEU Handbook</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: Title 5 CFR 330</i> Is citation valid? No Was citation applied correctly? No Avue Comments: This is the entire Recruitment, Selection & Placement (General) Chapter and covers a variety of areas such as: Methods of Filing Vacancies; RPL; Restricting to Preference Eligibles; Restricting to Protect Competitive Principles; CTAP; ICTAP; and Prohibited Personnel Practices. This is NOT an appropriate citation for this finding.</p>
When a self-assessment rating instrument is used to rank candidates, applicant responses are checked against other application materials for evidence supporting applicant ratings. Appropriate rating	Not Met	<p><i>Citation: 5 USC 2301</i> Is citation valid? Yes Was citation applied correctly? Yes</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
adjustments are made and documented. Official transcripts or equivalent documentation support applicants who qualify based on education.		<p><i>Citation: 5 USC 2301</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: Memorandum Guidance #10 (Unable to locate)</i></p> <p><i>Citation: OPM Qualification Standards</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: DEU Handbook</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: Title 5 CFR 330</i> Is citation valid? No Was citation applied correctly? No Avue Comments: Is the entire Recruitment, Selection & Placement (General) Chapter and covers a variety of areas such as: Methods of Filing Vacancies; RPL; Restricting to Preference Eligibles; Restricting to Protect Competitive Principles; CTAP; ICTAP; and Prohibited Personnel Practices for which there are no direct case citations regarding violations.</p>
Certification activities for displaced/surplus employees (ICTAP, CTAP and RPL) are documented and meet requirements, including second reviews and notification of otherwise-eligible ICTAP candidates found not well qualified.	Not Met	<p><i>Citation: 5 USC 2301</i> Is citation valid? No Was citation applied correctly? No Avue Comments: BPA has never conducted a RIF or otherwise had displaced employees for which this citation would apply.</p>
Minimum qualification determinations are documented and can be reconstructed. Applicable qualification standards are applied correctly.	Not Met	<p><i>Citation: 5 CFR 330.201(b)</i> Is citation valid? Yes Was citation applied correctly? Yes</p> <p><i>Citation: 5 USC 2301 (b) (1) – Merit Systems Principles</i> Is citation valid? Yes Was citation applied correctly? Yes</p>
Determinations regarding eligibility for veterans' preference (VP) and/or VEOA are properly made, and individuals with such preference are afforded their legal rights in recruitment, referral, consideration, and selection.	Not Met	<p><i>Citation: 5 CFR 300.103 – Job Analysis</i> Is citation valid? No Was citation applied correctly? No Avue Comments: Refers to a basic requirement of a job analysis which is relevant to ensuring applicants are appropriately measured but not for applying minimum qualifications as outlined in the OPM Qualification Standards.</p> <p><i>Citation: 5 USC 3313 – Competitive Service - Registers</i> Is citation valid? Yes Was citation applied correctly? Yes Avue Comments: Addresses competitive service and registers of eligibles.</p> <p><i>Citation: 5 CFR 250.101 – Personnel Management in Agencies</i> Is citation valid? No Was citation applied correctly? No Avue Comments: This citation broadly addresses personnel management in agencies and not VP or VEOA requirements.</p> <p><i>Citation: 5 CFR 250.102 – Delegated Authorities</i> Is citation valid? No</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
		<p>Was citation applied correctly? No</p> <p>Avue Comments: This citation addresses delegations of authority and not the required actions prescribed by DOE to certify eligible applicants correctly and document cases.</p> <p>Citation: 5 CFR 332.401 – Order on Registers</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 USC 2301 – Merit Systems Principles</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Certification procedures involving the "rule of three", category rating or internal placement procedures are properly followed and well documented. Selectees are qualified for positions.	Not Met	<p>Citation: 5 USC 2302 – Merit Systems Principles – Fair & Equitable Treatment</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Certificates are audited and documented by certified staff or trained contractors before appointees entrance on duty. Selections are properly made and actions such as declination or failure to respond are properly documented.	Not Rated	<p>Citation: DEOH, Chapter 6 – creating certificate of eligibles.</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Avue Comments: DOE pointed out that BPA omitted putting the Duty Location on referral lists and that is covered in this citation.</p>
Candidate's interview, selection, and placement practices are "neutral" and do not arbitrarily favor or disfavor specific candidates or types of applicants	Not Met	<p>Citation: 5 USC 2301(b)(1) – Merit Systems Principles</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 CFR 300.103 – Job Analysis</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 USC 2301(b)(2) – Merit Systems Principles – Fair & Equitable Treatment</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Decisions to use pay flexibilities for hiring (e.g., recruitment and relocation incentives and superior qualifications and special needs pay setting) are appropriately documented and justified accordingly.	Met	<p>Citation: 5 USC 1104(c) – Delegation of Authorities for Personnel Management</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Citation: 5 CFR 531.212 – Superior Qualifications and Special Needs Pay Authorizations</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p>
Established procedures for objections and requesting veteran pass-overs are followed and appropriate action (if any) is taken.	Not Met	NO CITATION
Annual self-audits of DE activities have been conducted and performed by staff who are not involved with the DE operations and have current DE certifications.	Not Met	<p>Citation: Delegated Examining Operations Handbook, Chapter 7, section D.</p> <p>Is citation valid? Yes</p> <p>Was citation applied correctly? Yes</p> <p>Who performs the self-review?</p>

Expected Outcomes of Critical Success Factors	DOE Assessment	Avue Review & Analysis of DOE-Used Citations
Appropriate corrective action is taken when cases of lost consideration or other types of violations are identified.	Not Met	NO CITATION
SF-50's and 52's are coded accurately and reflects all requirements in the Guide to processing personnel actions and the Guide to Personnel Data Standards. Official Personnel Folders have accurate documentation in file thus supporting the accession.	Met	NO CITATION
The DE coordinator submits accurate and timely quarterly workload reports via OPM's DE Information System.	Not Met	Citation: DEOH, Appendix C. Is citation valid? No; it should be Appendix M – Instructions for Completing the DE Quarterly Workload Report Form Was citation applied correctly? Appendix M is correctly applied.

Appointment

From: Fox,Troy J (CONTR) - NHQ-1 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=TJF682402D]
Sent: 10/4/2013 10:13:46 PM
To: Fox,Troy J (CONTR) - NHQ-1 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=TJF682402d]; Clark,David C (BPA) - NHI-1 (dcclark@bpa.gov) [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DXC7678]; Claire,Jody A (BPA) - NH-7 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JAC6591]; Shaut Jr,David L (BPA) - NHQ-1 [/O=BPA/OU=BPASite1/cn=Recipients/cn=DLS5895]; Wachal,Ellen E (BPA) - NHQ-1 [/O=BPA/OU=BPASite1/cn=Recipients/cn=EEW3821]; Cockrum Jr,Mitchell A (BPA) - NHQ-1 [/O=BPA/OU=BPASite1/cn=Recipients/cn=MAC9590]; Henderson,Robin Y (BPA) - NHQ-1 [/O=BPA/OU=BPASite1/cn=Recipients/cn=RYH0662]; Dan Creamer [dan@avuetech.com]; Ava Krogh [akrogh@avuetech.com]
CC: Telles,Francisca G (BPA) - NH-1 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FGT84339ec]; Wentworth,Julia J (BPA) - NHI-1 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=JJW8406]; 'Waldmann, George (George.Waldmann@hq.doe.gov)' [George.Waldmann@hq.doe.gov]
Subject: Avue Gap Analysis Technical Review
Location: BPA HQ 196A
Start: 10/10/2013 8:00:00 PM
End: 10/10/2013 11:00:00 PM
Show Time As: Busy
Required Attendees: Fox,Troy J (CONTR) - NHQ-1; Clark,David C (BPA) - NHI-1 (dcclark@bpa.gov); Claire,Jody A (BPA) - NH-7; Shaut Jr,David L (BPA) - NHQ-1; Wachal,Ellen E (BPA) - NHQ-1; Cockrum Jr,Mitchell A (BPA) - NHQ-1; Henderson,Robin Y (BPA) - NHQ-1; Dan Creamer; Ava Krogh

Agenda:

Joint Avue / BPA SME technical review of Avue system gap analysis based upon feedback received to date from the OPM audit, DOE audit, OPM training and DOE verbal direction. We will begin scoping discussions to identify short and long term options to address these items before we can resume hiring within the Avue system. Within the Gap analysis we will need to address the following points:

- What options does Avue have to address these items with current system functionality?
- What options could Avue provide via system change requests to address these items?
- Of the short / long term options discussed, which can be accommodated within the current contract and which would require modifications and additional funding?
- Determine estimated scope, schedule and or costs for each option identified.
- Determine next step, meetings, stakeholders and timelines required to complete the go forward assessment plan.

Please distribute this meeting invitation to appropriate SME's not included on this initial invite.

*Note, Draft Gap Analysis document will be distributed to all attendees on Monday 10/7/2013.

Conference Bridge:

Dial-in number from HQ, Ross, or Van Mall: x3344
External dial-in number: 503-230-3344
Passcode: 1309

Note: This system does not provide voice prompts. After the double beep, enter the passcode (no '#' required). If you are the first caller into the bridge you will hear silence until a second caller connects.

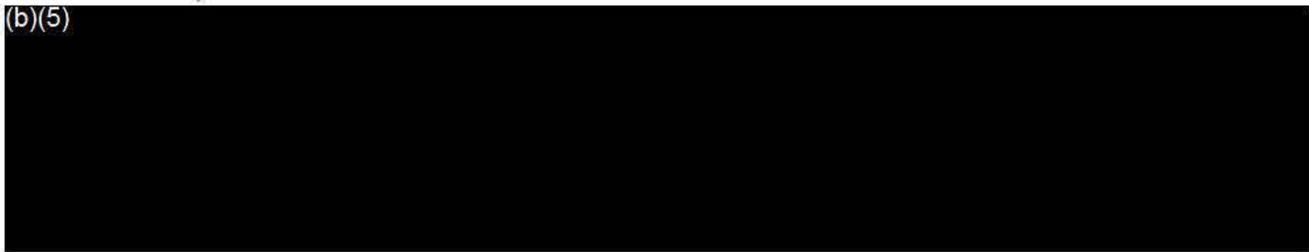
To: Mainzer, Elliot E (BPA) - D-7[eemainzer@bpa.gov]; Roach, Randy A (BPA) - L-7[raroach@bpa.gov]; Andrews, Claudia R (BPA) - K-7[crandrews@bpa.gov]; Margeson, Jacilyn R (BPA) - LC-7[jrmargeson@bpa.gov]; Cogswell, Peter (BPA) - DK-7[ptcogswell@bpa.gov]
From: Johnson, G Douglas (BPA) - DKPM-7
Sent: Sat 10/5/2013 3:56:01 PM
Subject: Re: Statement on AVUE report

I will work with Pete to combine the Randy info with our original statement. Do you think we need to run it by DOE HQ?

From: Mainzer, Elliot E (BPA) - D-7
Sent: Saturday, October 05, 2013 08:51 AM Pacific Standard Time
To: Roach, Randy A (BPA) - L-7; Andrews, Claudia R (BPA) - K-7; Johnson, G Douglas (BPA) - DKPM-7; Margeson, Jacilyn R (BPA) - LC-7; Cogswell, Peter (BPA) - DK-7
Subject: Re: Statement on AVUE report

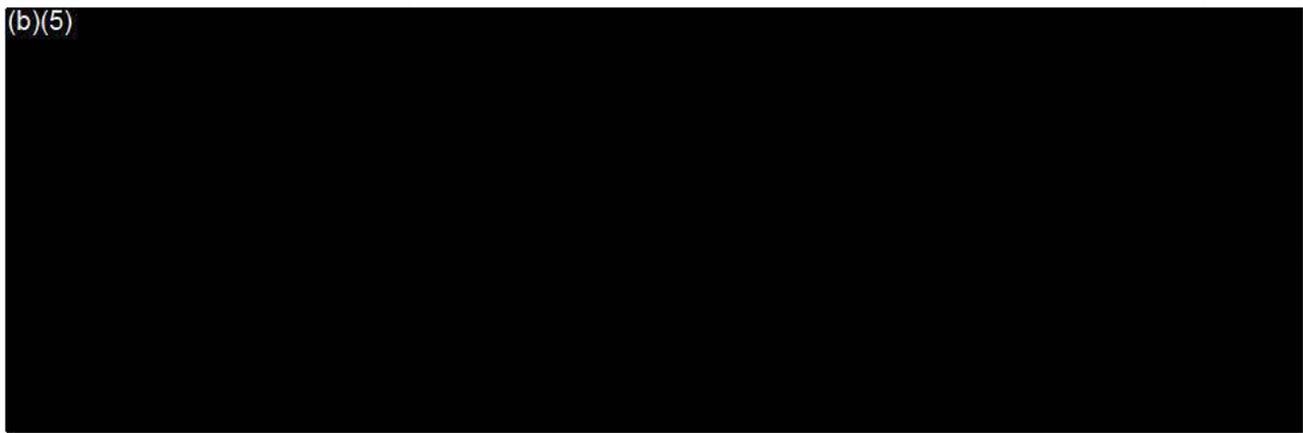
We will want to discuss this at the 9am call (I will call in) and also have an aggregated statement combining the ClearingUp message and the statement that Randy drafted below ready to go out to all employees first thing Mon am. Pete and Doug, pls pull something together for us to review Sun eve.

(b)(5)

A large black rectangular redaction box covering the majority of the page content.

From: Roach, Randy A (BPA) - L-7
Sent: Saturday, October 05, 2013 08:26 AM
To: Andrews, Claudia R (BPA) - K-7; Mainzer, Elliot E (BPA) - D-7; Johnson, G Douglas (BPA) - DKPM-7; Margeson, Jacilyn R (BPA) - LC-7; Cogswell, Peter (BPA) - DK-7
Subject: RE: Statement on AVUE report

(b)(5)

A large black rectangular redaction box covering the majority of the page content.

(b)(5)



From: Andrews,Claudia R (BPA) - K-7
Sent: Friday, October 04, 2013 6:11 PM
To: Mainzer,Elliot E (BPA) - D-7; Johnson,G Douglas (BPA) - DKPM-7; Roach,Randy A (BPA) - L-7; Margeson,Jacilyn R (BPA) - LC-7; Cogswell,Peter (BPA) - DK-7
Subject: FW: Statement on AVUE report

This is what I sent to Ken

From: Andrews,Claudia R (BPA) - K-7
Sent: Friday, October 04, 2013 6:01 PM
To: 'Venuto, Kenneth (Kenneth.Venuto@hq.doe.gov)'
Subject: FW: Statement on AVUE report

Ken,

Please see below message. Clearing Up is the northwest energy industry weekly that came out this afternoon with an article that says that BPA commissioned the report from Avue. The reporter says that Avue told him that our contracting officer asked for this report to be done. Unfortunately, we have not been able to get in touch with the contracting officer to find out if that is true. John Hairston and Frances Telles have no knowledge of any such request to Avue.

We probably won't be able to get to the bottom of this until Monday, but I wanted you to be aware that so far, I can't find anyone in BPA leadership who requested this report or, in fact, had any knowledge that it was being done.

The reporter doesn't seem to have talked to anyone at BPA about this, but he thought that we had a copy of the report (which we didn't, although I believe the reporter has sent a copy to Elliot). When we talked to him, he was surprised to find out that we didn't have the report.

More to come next week.

Claudia

From: Andrews, Claudia R (BPA) - K-7
Sent: Friday, October 04, 2013 5:45 PM
To: Mainzer, Elliot E (BPA) - D-7
Subject: Statement on AVUE report

Elliot

We are sending the below statement to Clearing Up to immediately correct any misperceptions that may have been created from today's article about an Avue report that says was "commissioned by BPA" and later "prepared for BPA".

BPA's Acting Administrator Elliot Mainzer and Acting Chief Operating Officer Claudia Andrews did not request and were not aware of any report prepared by AVUE related to the DOE Human Capital Management Accountability Program and Office of Personnel Management audits. In addition, neither would have commissioned such a report. Until BPA has an opportunity to determine the report's origin and contents, we will be unable to comment further.

To: Cogswell, Peter (BPA) - DK-7[ptcogswell@bpa.gov]; Roach, Randy A (BPA) - L-7[raroach@bpa.gov]; Margeson, Jacilyn R (BPA) - LC-7[jmargeson@bpa.gov]; Andrews, Claudia R (BPA) - K-7[crandrews@bpa.gov]; Mainzer, Elliot E (BPA) - D-7[eemainzer@bpa.gov]
From: Johnson, G Douglas (BPA) - DKPM-7
Sent: Sat 10/5/2013 1:06:04 AM
Subject: FW: Clearing Up
[Clearing Up 10-4-13.pdf](#)

Just sent this to my contacts at DOE HQ.

From: Johnson, G Douglas (BPA) - DKPM-7
Sent: Friday, October 04, 2013 6:05 PM
To: niketa.kumar@hq.doe.gov; aoife.mccarthy@hq.doe.gov; Markovitz, Alison (Alison.Markovitz@Hq.Doe.Gov)
Subject: Clearing Up

We were blindsided by a story about a report prepared by AVUE (our HCM contractor) in this week's edition of Clearing Up. I have sent the following statement to Ben Tansey in hopes that Clearing Up can send it to its mailing list, so we can be perfectly clear about the report without having to wait until next week's edition. I will let you know as soon as possible if Ben is successful in his attempt to issue our statement to the publication's mailing list.

"BPA's Acting Administrator Elliot Mainzer and Acting Chief Operating Officer Claudia Andrews did not request and were not aware of any report prepared by AVUE related to the DOE Human Capital Management Accountability Program and Office of Personnel Management audits. In addition, neither would have commissioned such a report. Until BPA has an opportunity to determine the report's origin and contents, we will be unable to comment further."

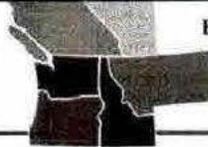
I wanted to get this to you as soon as possible. I have attached a copy of the publication for you. Please contact me at the number below if you need anything else. I can also be reached on my cell phone (b)(6).

Doug Johnson

503-230-5840



CLEARING UP



Energy and Utility News
for the Pacific
Northwest and
Western Canada

Energy NewsData, Seattle & San Francisco: October 4, 2013 • No. 1615

The Week In Summary

[1] Report Calls Out DOE Quest to Make BPA a 'Field Office'

A report commissioned by BPA determined the agency's compliance with DOE human-resource policies is "contrary" to policies from which Bonneville is explicitly exempt and to its legal status as "a separate and distinct" organization within DOE. Compliance could result in downgrading more than 1,300 BPA positions, lower pay scales, difficulty in recruiting and retaining talent, and turning BPA into a DOE "field office." Also, recent DOE and Office of Personnel Management reviews "failed to confirm" the DOE inspector general's preliminary finding that BPA engaged in prohibited personnel practices. *Also at [16], the greatly anticipated DOE IG's final report was circulated at BPA, but its release may be stymied by the partial government shutdown.*

[2] Draft 2015-2019 NEEA Plan Outlines Two Key Strategic Goals

Filling the energy-efficiency pipeline and fostering accelerated, sustained market adoption of EE are the two overarching goals in the Northwest Energy Efficiency Alliance's draft strategic plan for 2015-2019. Released for comment Sept. 23, the plan acknowledges ongoing challenges—including an uneven economy, minimal load growth, utility rate pressures and low avoided costs—but outlines a continuing regional alliance to transform markets. *Some changed emphases and slimmer budgets envisioned for NEEA post-2014, at [11].*

[3] Montana PSC Drops Cap on Small QFs to 3 MW

The Montana PSC voted 3-2 on Oct. 1 to lower the cap on small QF projects, from 10 MW to 3 MW. The PSC had earlier proposed dropping the cap to 100 kW, but raised it after the Montana Legislature's Energy and Transportation Interim Committee indicated it wanted a 3-MW cap. Per the committee's request, PSC staff had prepared an economic impact statement on the 100-kW cap, but the committee sent it back, saying it was insufficient for not also considering a 3-MW cap. *Small QFs to get even smaller in Montana, at [13].*

[4] WECC's Transmission Long View Looks 'Adequate' for Load Growth, Renewables

A study of the Western interconnection's future under a variety of scenarios finds that the region's grid will likely be adequate to support growing loads and RPS mandates over the next two decades. Looking ahead to 2022 and 2032, the Western Electricity Coordinating Council's 2013 Interconnection-wide Transmission Plan employed an "expected" future that includes completion of all 30 regionally significant transmission projects; enough net generation for planning reserve margins, RPS requirements and California's once-through-cooling regulations; and full realization of state energy efficiency and DSM programs. *At [12], renewables booms in remote locales and on SoCal BLM lands pose wild cards.*

Inside

- Steelhead Expectations Drop Even More; Fall Chinook Still Strong [Jump to \[9\].](#)
- BPA Releases Scoping Document for Energy Efficiency Post-2011 Review... [Jump to \[9.1\].](#)
- Opponents Petition Columbia County on Port Rezone Application..... [Jump to \[9.2\].](#)
- UW, Air Agency to Study Ultra-Fine Particulates Relevant to Biomass Co-gen... [Jump to \[9.3\].](#)
- Battery-Based Energy Storage Project Completed in B.C..... [Jump to \[9.4\].](#)
- Feds Seek Interest in Wind Lease Off Southern Oregon Coast [Jump to \[9.5\].](#)
- Brief Mentions: News Roundup... [Jump to \[9.6\].](#)
- BPA Customers Want No Change in F&W Focus [Jump to \[14\].](#)
- Niners Uphold Lethal Removal of Sea Lions at Bonneville Dam..... [Jump to \[15\].](#)
- CARB Issues Draft of AB 32 Scoping Plan Update..... [Jump to \[17\].](#)
- POTOMAC: Wyden Blames 'Organized PR' for Binz FERC Withdrawal..... [Jump to \[18\].](#)

Perspectives

- If a BPA Exec Falls and No One Covers It, Did It Really Happen? [Jump to \[10\].](#)

Northwest Numbers

- Northwest Employment Growth Near Standstill [Details on Page 6.](#)

Price Report

- Modest Gain for Western Energy Prices [Details on Page 7.](#)

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Go to www.EnergyJobsPortal.com for the latest in regional energy career opportunities.

upheld a ruling by a relative newcomer to the federal bench in the District of Oregon, Judge Michael Simon, whose ruling favored the federal agency's interpretation of the law. Simon has taken over the BiOp litigation from retired Judge James Redden, and it seems likely the latest salmon plan will be headed back to court, after the latest version comes out by the first of next year.

In his March 2013 ruling in the sea lion case, Simon wrote, "the Court concludes that NMFS has reasonably explained any apparent inconsistencies among its findings for two reasons: first, NMFS identified substantive differences among the applicable statutory standards, and

second, NMFS identified relevant qualitative differences between the impacts caused by fisheries and the mortality caused by pinniped predation."

Simon accepted the National Marine Fisheries Service's argument that "significant" had different meanings, depending on the statute involved, on whether it was the Endangered Species Act of 1973, Marine Mammal Protection Act or National Environmental Policy Act. He said plaintiffs did not recognize that the feds use differing standards for gauging adverse effects from harvest and sea lions, so the plaintiffs' argument comparing the two results was incorrect *[Bill Rudolph]*.

Clearing It Up

[16] Report Calls Out DOE Quest to Make BPA a 'Field Office' from [1]

BPA can improve its Human Capital Management Office, but "the core issue is whether or not BPA is an independent agency," according to a Sept. 27, 2013, report prepared for BPA, a copy of which was obtained by *Clearing Up*.

The report also finds that "compliance with DOE policy and guidance is contrary" to authorities already delegated to BPA, and would represent "a clear subordination of BPA."

Meanwhile, the greatly awaited DOE Inspector General's final report has not yet been released.

The Sept. 27 report, by Tacoma-based Avue Technologies, compares findings of the two recently completed federal reviews of BPA's human capital management (HCM) practices—an audit by DOE's HCM office and an evaluation by the federal Office of Personnel Management (OPM).

One key difference, Avue said, is that where OPM decertified individual BPA staff members, it did not touch the Delegated Examining Unit that supports hiring. Based on the same infractions, however, DOE decertified the DEU, "which has all but shut down hiring at BPA." If only individuals had been decertified, BPA could have continued hiring by using Avue as an "alternative arrangement," since Avue has certified employees.

Avue said it found 10 instances—about 25 percent—in which DOE "cited the incorrect regulation in asserting its findings."

The federal finding with "the most significant adverse impact on BPA," the Avue report stated, was DOE's conclusion that higher grades had been assigned to job descriptions than were warranted because the work to be performed was identified as being "agency-level." That phrase is key, it said, because it could result in having to lower the grades of as many as 1,331 positions at BPA currently classified as non-supervisory GS-13, -14 or -15 levels.

"If DOE's dilution of BPA's independent agency status is sustained, at least 500 of these positions would classify at no higher than the GS-12 level." The positions identified "would be abolished when the current incumbent vacates" and the job is reclassified to the lower grade.

"The adverse impact on BPA's ability to retain and recruit in an intensely competitive energy industry

labor market is significant," the report said. "Not only would compensation levels be much lower, but the OPM-required qualification standards have much lower requirements resulting in a less-skilled talent pool and workforce. Career leaders for BPA employees would also be truncated and the number of available promotion opportunities so reduced as to become a serious impediment to employee retention."

This would come in addition to the impact of the process, already under way, of having to hire new personnel adversely impacted by the hiring errors.

DOE's finding that BPA improperly designated positions as being "agency-level" is not a reflection of the accuracy of BPA's classification program," the report said. "Instead, it is a reflection of DOE's assertion that BPA is not an independent agency." If it were, the classifications of the 1,331 positions "would be accurate. DOE's revocation of BPA's classification authority rests solely on its unilateral and highly politicized dilution of BPA's status as an independent agency."

Avue cited an analysis it did 15 months ago documenting actions BPA could take to keep the higher grade levels. That analysis said sustaining higher grades was required to ensure that "BPA be defined as an 'agency' and not a 'field office.'" Two weeks before BPA COO Anita Decker was removed from BPA, Avue said, it reported updated data to her on "the possible impact of DOE's characterization of BPA as a field office instead of an independent agency."

The DOE audit dinged BPA for characterizing itself as an "agency" in job descriptions, and required that it "cease characterizing BPA as an independent agency."

Avue, which offers what it calls a "comprehensive human resources management platform to federal agencies using a Cloud-centric model," came on board at BPA in July 2012 after a six-month competitive vetting that began with a request for proposals. It was tasked with helping the agency to reduce its "time-to-hire," ensure compliance with OPM regulations and set up a recruitment program.

BPA has also relied on Avue as the agency's human capital management problems began to explode this summer, contributing to DOE's July 15 decision to remove Administrator Bill Drummond and COO Anita Decker, who are still required to check in daily with DOE. DOE still has not publicly stated the status of

Drummond and Decker; BPA's website still lists them as administrator and COO.

The Avue report said the DOE audit, OPM review and Avue's own review of the data all "failed to confirm" the DOE Inspector General's July 16 preliminary finding that BPA "engaged in prohibited personnel practices" (PPPs) in 65 percent of its competitive recruitments. Neither the OPM nor DOE reviews contained a finding of a PPP, it noted. PPPs are different and are more serious than Merit System violations, as PPPs require intent.

Rather, both OPM and DOE said the "root cause" of their findings was the competency level of BPA's HR staff—one of the things Avue said was brought in to help rectify.

Moreover, Avue said that in its August 2012 audit of cases in which cutoff scores were raised after the vacancy was posted, "no pattern of adverse impact emerges regarding veterans." Of the 50 cases examined, the vast majority, or 87 percent, did not affect veterans at all.

"The insertion of cut-off scores was a practice to help reduce the "best qualified" group to a manageable size, rather than an attempt to disqualify veterans or to circumvent veteran's preference," it found. Allegations of PPP violations "are simply unfounded."

Release of the DOE IG's final report, which the region has greatly anticipated, has been considered imminent for weeks. A draft copy was recently circulated among a small group of people at BPA, which was given

an opportunity to respond. It was unclear what effect, if any, the federal government's partial shutdown would have on release of the final document; the IG's media representative did not return a *Clearing Up* call.

In comparing the DOE and OPM reviews, Avue

noted a total of 30 "critical success factors" were evaluated. DOE found BPA had not met 18 of these, while OPM found BPA had not met four.

OPM was also more likely to credit BPA with having "partially met" criteria. "Of factors where OPM and DOE disagreed on BPA's rating," Avue said, "OPM rated BPA more favorably 87 percent of the time."

This contrast "illustrates the degree" to which DOE was focused on violations of its own policies, the report said. "DOE's reliance on deviations from its own policies as the basis for BPA's ratings demonstrates the extent to which these negative rating are without merit," the Avue report said. Adhering to the policies in the DOE audit "would not correct the systemic causes of BPA's non-compliance" with the regulations cited by OPM, and complying with the DOE audit's required actions would be "merely procedural." It would "not provide material value to BPA" and many of the recommendations "would create inefficiencies."

Moreover, DOE overlooked BPA's statutory exceptions. In fact, "it requires BPA compliance with DOE policies that specifically exempt BPA."

BPA has previously memorialized the extent of its autonomy. In an April 2, 2010, memo to then-DOE Chief Human Capital Officer Michael Kane, Decker noted

that with two exceptions, the BPA administrator "has the delegated authority to determine" which DOE HR directives, or parts thereof, "are applicable to BPA." To determine when directives apply, she wrote, BPA and DOE "will consult on the needs of the Department as balanced against BPA's unique statutory authority, business-like operating processes, and historic autonomy."

Under the BPA Fund, the self-financed agency is required to manage its financial affairs "more like a business than a government agency" and BPA's human resource policies were developed accordingly, Decker wrote.

The agency was "organized as a separate entity" within DOE "with a degree of autonomy compatible with the nature of the agency and the regional character of its programs and functions." Decker wrote that Congress affirmed "this independent arrangement" in the DOE Organization Act when it directed that BPA "shall be preserved as a separate and distinct organizational entity within the Department."

"It would appear the DOE's ratings, in large part, are critical of BPA's authority to operate under a variety of delegations that recognize the independence of BPA," according to Avue. But "failure to follow DOE policy, especially given BPA's specific delegation to operate its HR program with independence, should not be the basis for DOE's revocation of BPA personnel authorities or many of the ratings and conclusions reached in its audit report, which create the appearance of a catastrophic failure."

Some observers said the situation was reminiscent of days when the Organization Act was being implemented. In a Jan. 20, 1978, memo to DOE, Bonneville's then-Administrator Sterling Munroe wrote, "The key issue is whether BPA is to be considered a DOE field office ... or whether we are to remain a 'separate and distinct' organizational entity as the DOE Organization Act and previous practice, founded in law, would have us."

Avue identified 14 actions DOE and/or OPM directed BPA to take, and ranked their priority. It said implementation of Avue's system has already fully resolved 11 of these actions, including all but one of the half-dozen ranked as a No. 1 priority. Consequently, these issues will "not recur again," it said.

This contrasts with various DOE statements, it said, such as that from Ken Venuto, director of DOE's Office of Human Capital Management. In his introduction to the DOE audit, Venuto said "the level of effort needed to complete all required corrective actions is monumental and the road to full recovery will be extremely challenging." Such statements, Avue said, "are nothing more than hyperbole" (*Ben Tansey*).

[17] CARB Issues Draft of AB 32 Scoping Plan Update • from [6]

The California Air Resources Board has released a draft update to the state's AB 32 scoping plan that highlights progress in achieving the law's 2020 greenhouse gas emissions-reduction target, while also contemplating future steps for achieving long-term climate goals.

Under AB 32, CARB is required to update the scoping plan every five years. The first plan, adopted in 2008, provides a road map to reduce the state's GHG emissions to 1990 levels by 2020.

To: Cogswell, Peter (BPA) - DK-7[ptcogswell@bpa.gov]
From: Baskerville, Sonya L (BPA) - DKN-WASH
Sent: Sun 10/6/2013 10:31:29 PM
Subject: Re: Avue Technologies report criticizing DOE

I doubt we commissioned this???

Sonya Baskerville
BPA National Relations
202.253.7352

From: Cogswell, Peter (BPA) - DK-7
Sent: Sunday, October 06, 2013 04:11 PM
To: Baskerville, Sonya L (BPA) - DKN-WASH
Subject: FW: Avue Technologies report criticizing DOE

FYI.

From: Mainzer, Elliot E (BPA) - D-7
Sent: Saturday, October 05, 2013 12:44 PM
To: Roach, Randy A (BPA) - L-7; Andrews, Claudia R (BPA) - K-7; Hairston, John L (BPA) - N-4; Cogswell, Peter (BPA) - DK-7; Johnson, G Douglas (BPA) - DKPM-7
Subject: Fw: Avue Technologies report criticizing DOE

FYI.

From: Poneman, Daniel [mailto:Daniel.Poneman@hq.doe.gov]
Sent: Saturday, October 05, 2013 12:07 PM
To: Markovitz, Alison <Alison.Markovitz@Hq.Doe.Gov>; Mainzer, Elliot E (BPA) - D-7; Cadieux, Gena <Gena.Cadieux@hq.doe.gov>; Harris, Skila <Skila.Harris@Hq.Doe.Gov>
Cc: Woods, Gregory <Gregory.Woods@Hq.Doe.Gov>; Beard, Susan <Susan.Beard@hq.doe.gov>
Subject: FW: Avue Technologies report criticizing DOE

From: (b)(6)]

Sent: Saturday, October 05, 2013 2:56 PM
To: Poneman, Daniel
Subject: Avue Technologies report criticizing DOE

Deputy Secretary Poneman:

The trade publication *Clearing Up* carried the attached article on Friday summarizing a report commissioned by BPA that is quite critical of DOE's human capital management audit. FYI.

The company that wrote the report, Avue Technologies, does not appear to be a disinterested party.

I don't know enough about federal hiring practices to say who is right but I find it odd that BPA would commission the study not from an independent source but from a BPA contractor who is itself (if I understand correctly) heavily invested in the status quo at BPA.

Sincerely,

Dan

--

Daniel Seligman, Attorney at Law
Columbia Research Corp. (water/energy/natural resources consulting)
Phone: 206-285-1185 (Seattle, Washington)
<http://www.danielseligman.com>

Many thanks!

DP

From: (b)(6)
Sent: Sunday, February 10, 2013 2:52 PM
To: Poneman, Daniel
Subject: The Steve Wright Era -- a BPA Watch newsletter

Deputy Secretary Poneman:

Attached is the latest **BPA Watch** newsletter -- it's on Steve Wright's tenure as BPA Administrator. I thought you might be interested. The newsletter is also posted on www.bpawatch.com

Dan

Daniel Seligman, Attorney at Law
Columbia Research Corp. (water/energy/natural resources consulting)
Phone: 206-285-1185 (Seattle, Washington)
<http://www.danielseligman.com>

To: Johnson,G Douglas (BPA) - DKPM-7[gdjohnson@bpa.gov]
From: Cogswell,Peter (BPA) - DK-7
Sent: Sun 10/6/2013 11:45:38 PM
Subject: Fw: All employee email AVUE report 10-7-13
[All employee email AVUE report 10-7-13.doc](#)
[ATT00001.htm](#)

Second of two...this has his proposed order and other edits. First email has my one suggested change. I will try to make in doc via Bberry, but will be in early enough tomorrow that we can work on it.

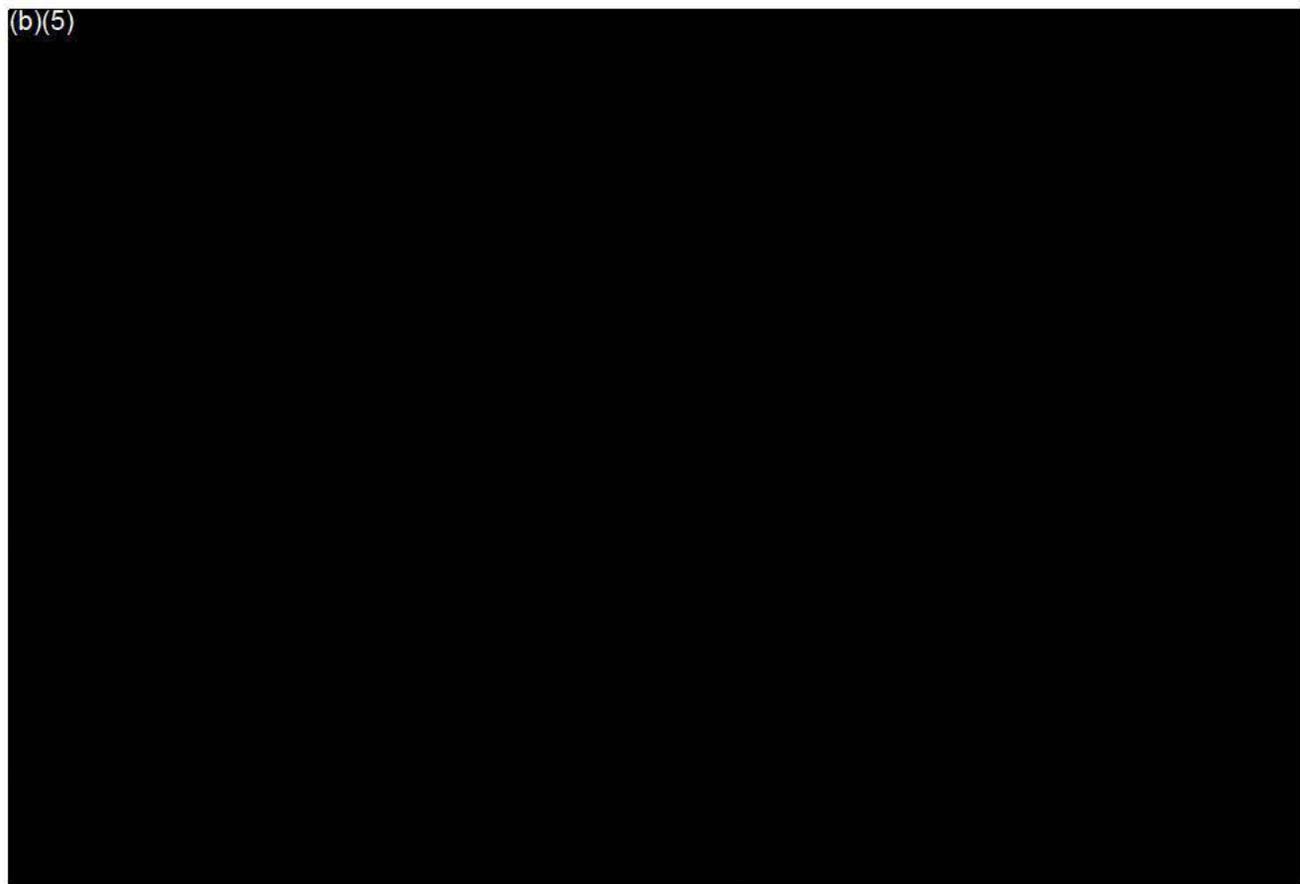
See you bright and early.

From: Mainzer, Elliot E (BPA) - D-7
Sent: Sunday, October 06, 2013 03:41 PM
To: Cogswell,Peter (BPA) - DK-7
Subject: All employee email AVUE report 10-7-13

(b)(5)



(b)(5)



To: Mainzer, Elliot E (BPA) - D-7[eamainzer@bpa.gov]; Andrews, Claudia R (BPA) - K-7[crandrews@bpa.gov]; Roach, Randy A (BPA) - L-7[raroach@bpa.gov]; Margeson, Jacilyn R (BPA) - LC-7[jrmargeson@bpa.gov]; Cogswell, Peter (BPA) - DK-7[ptcogswell@bpa.gov]
From: Johnson, G Douglas (BPA) - DKPM-7
Sent: Mon 10/7/2013 5:57:03 PM
Subject: FW: Draft All employee email: Avue report/Clearing Up article
All employee email AVUE report 10-7-13 PC, EM edits.doc

Here's what we got back from DOE HQ. (b)(5)

See attached.

From: Markovitz, Alison [<mailto:Alison.Markovitz@Hq.Doe.Gov>]
Sent: Monday, October 07, 2013 10:54 AM
To: Johnson, G Douglas (BPA) - DKPM-7
Cc: Kumar, Niketa; McCarthy, Aoife
Subject: RE: Draft All employee email: Avue report/Clearing Up article

Thanks Doug. (b)(5)

From: Johnson, G Douglas
Sent: Monday, October 07, 2013 11:30 AM
To: Markovitz, Alison
Subject: RE: Draft All employee email: Avue report/Clearing Up article

(b)(5)

(b)(5)

From: Markovitz, Alison [<mailto:Alison.Markovitz@Hq.Doe.Gov>]
Sent: Monday, October 07, 2013 8:20 AM
To: Johnson, G Douglas (BPA) - DKPM-7; Kumar, Niketa; McCarthy, Aoife
Cc: Beard, Susan; Harris, Skila
Subject: RE: Draft All employee email: Avue report/Clearing Up article

(b)(5)

(b)(5)

[REDACTED]

[REDACTED]

From: Johnson, G Douglas
Sent: Monday, October 07, 2013 10:58 AM
To: Markovitz, Alison; Kumar, Niketa; McCarthy, Aoife
Subject: Draft All employee email: Avue report/Clearing Up article

Alison,

As discussed Friday, here is the email we would like to send to all employees as soon as possible this morning. Please let us know if you have edits or changes. Let me know if you have questions. Thanks.

Doug Johnson

503-230-5840

To: Cogswell, Peter (BPA) - DK-7[ptcogswell@bpa.gov]
From: Johnson, G Douglas (BPA) - DKPM-7
Sent: Mon 10/7/2013 3:44:33 AM
Subject: RE: All employee email AVUE report 10-7-13

A lot to do tomorrow. Should be fun.

From: Cogswell, Peter (BPA) - DK-7
Sent: Sunday, October 06, 2013 4:46 PM
To: Johnson, G Douglas (BPA) - DKPM-7
Subject: Fw: All employee email AVUE report 10-7-13

Second of two...this has his proposed order and other edits. First email has my one suggested change. I will try to make in doc via Bberry, but will be in early enough tomorrow that we can work on it.

See you bright and early.

From: Mainzer, Elliot E (BPA) - D-7
Sent: Sunday, October 06, 2013 03:41 PM
To: Cogswell, Peter (BPA) - DK-7
Subject: All employee email AVUE report 10-7-13

To: Cogswell, Peter (BPA) - DK-7[ptcogswell@bpa.gov]; Johnson, G Douglas (BPA) - DKPM-7[gjohnson@bpa.gov]
From: Mainzer, Elliot E (BPA) - D-7
Sent: Mon 10/7/2013 5:55:07 AM
Subject: Re: All employee email AVUE report 10-7-13

Let's try to do a final check in by 7:30 am. Thx.

From: Cogswell, Peter (BPA) - DK-7
Sent: Sunday, October 06, 2013 06:49 PM
To: Mainzer, Elliot E (BPA) - D-7
Subject: Re: All employee email AVUE report 10-7-13

Will do and will have first thing. Will be in early with Doug J.

From: Mainzer, Elliot E (BPA) - D-7
Sent: Sunday, October 06, 2013 03:59 PM
To: Cogswell, Peter (BPA) - DK-7
Subject: Re: All employee email AVUE report 10-7-13

Agree. Pls edit appropriately.

Elliot E. Mainzer
Acting Administrator
Bonneville Power Administration
(503) 230-4175 (w)
(503) 754-2393 (c)
eemainzer@bpa.gov

On Oct 6, 2013, at 3:57 PM, "Cogswell, Peter (BPA) - DK-7" <ptcogswell@bpa.gov> wrote:

(b)(5)

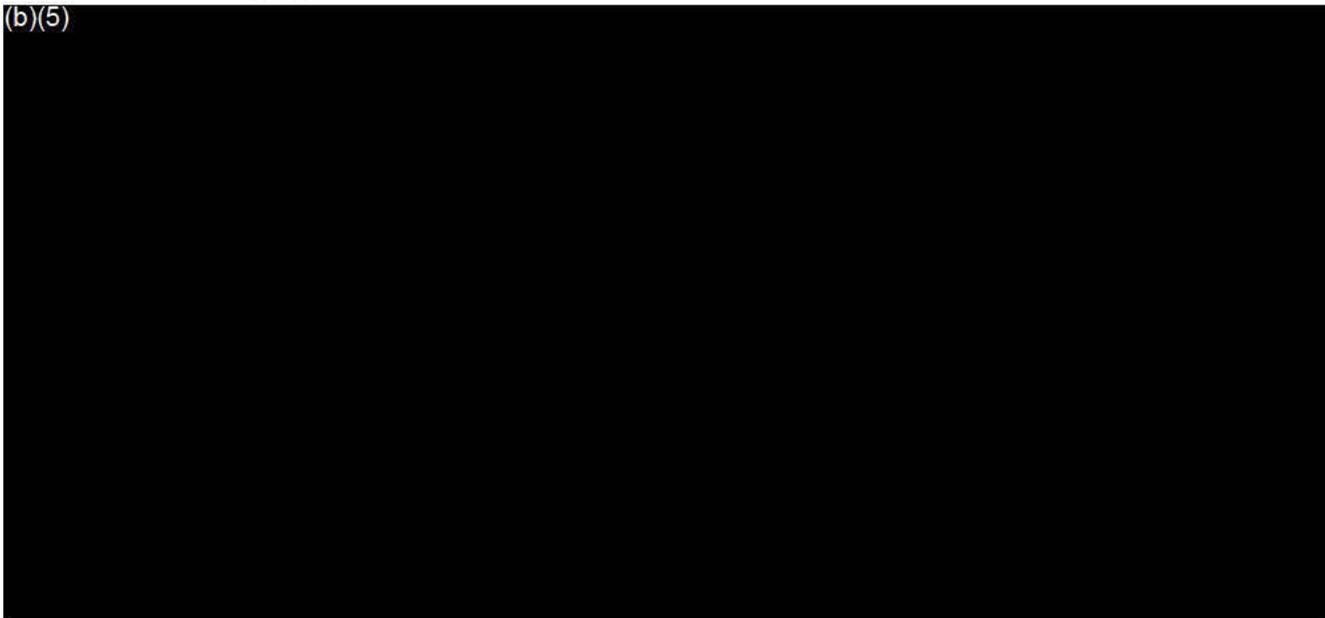


Thanks for chat today...I like the way you are thinking about this stuff. Always happy to be a sounding board.

From: Mainzer, Elliot E (BPA) - D-7
Sent: Sunday, October 06, 2013 03:41 PM
To: Cogswell, Peter (BPA) - DK-7
Subject: All employee email AVUE report 10-7-13

Fellow BPA Employees,

(b)(5)



Elliot

Fellow BPA Employees,

(b)(5)



I will keep you posted on this situation as more information becomes available.

Elliot

Message

From: Avue Co-CEOs [CEO@avuetech.com]
Sent: 10/8/2013 12:29:23 AM
To: Kundu, Sanjit K (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=SKK1567]
Subject: RE: Clearing Up Article

Sanjit – gave you a call on your office phone - give me a call regarding this on my cell at (b)(6) when you can, this evening or tomorrow morning. Thanks, Linda

Linda E. Brooks Rix and James D. Miller

Co-Chief Executive Officers
Avue Technologies Corporation
1145 Broadway Plaza, Suite 800, Tacoma, WA 98402
Phone: 253.573.1877 (Ellin Bursese, Executive Assistant)
Cell: (b)(6) for LBR, (b)(6) for JDM (b)(6)
Email: ceo@avuetech.com
Web: www.avuetech.com

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From: Kundu, Sanjit K (BPA) - NSSF-4 [mailto:skkundu@bpa.gov]
Sent: Monday, October 07, 2013 5:11 PM
To: Avue Co-CEOs
Subject: RE: Clearing Up Article

Thanks very much for the email.

The front office also requested that I ask if you would not mind sharing with us to whom the report was sent to, outside of BPA? Did that include "Clearing Up" or can we assume that the newsletter got it elsewhere?

We can speak directly on the phone if that is preferred.

Thanks,
SKK

Sanjit K. Kundu
IT Contracts Administrator
NSSF - IT, Supplemental Labor, & Professional Services Purchasing
Bonneville Power Administration
U.S. Department of Energy

Mail Stop NSSF-4, P.O. Box 3621
Portland, Oregon 97208
Phone: 503-230-3518
Fax: 503-230-4508

From: Avue Co-CEOs [<mailto:CEO@avuetech.com>]
Sent: Monday, October 07, 2013 12:48 PM
To: Kundu, Sanjit K (BPA) - NSSF-4; Young, Winston B (BPA) - NSSF-4
Subject: Clearing Up Article

Sanjit and Winston,

We're writing to clarify the recent article in "Clearing Up" which states that BPA "commissioned" the report we did regarding the two audit reports. We want you to know that Avue has never believed, said to any party, or stated in the report itself, that the report was "commissioned by BPA" and the reporter has been informed that this was not correct characterization.

As we discussed a few weeks ago, Avue created an analysis of the two reports in order to more critically examine the changes needed, if any, to the manner in which Avue's system is configured and operates in BPA. As you know, the configurations are structured around each client's operating practice in concert with requirements that must be met to be in compliance with governing laws and regulations. As part of that review process, Avue also rechecked against requirements BPA set as part of the competitive contracting process. In that review, we found a strong match between the requirements BPA defined and its desire to be compliant with governing federal regulations. Since the audits largely examined cases that were processed pre-Avue, it was important to determine what, if any, changes would be necessary to ensure that the rules engines in Avue would assist in making program improvements in its BPA's operations going forward.

In addition, Avue was setting the record straight with respect to comments made by DOE personnel in meetings with members of the Washington State Congressional Delegation in early- and mid-July. We heard from members of the delegation that DOE made statements that disparaged Avue's compliance with regulation and attempted to create a nexus between the Avue system and the results of the audit findings by DOE and OPM. This concerned us for a number of reasons, among them our longstanding relationship with Veterans Service Organizations and other individuals in Congress whose work to support veterans were actively supported by Avue.

The report extensively quoted in the Clearing Up article was created for the purpose of providing BPA with our response on how the Avue system would ensure future actions taken by BPA would be compliant with regulation as well as ensure that the statements made by DOE to our home state delegation were addressed. BPA did not commission the work we performed, rather the work we performed was in the context of our normal operations in support of BPA's HCM program and program improvements.

Please let us know if you have any questions. Linda and Jim

Linda E. Brooks Rix and James D. Miller

Co-Chief Executive Officers
Avue Technologies Corporation
1145 Broadway Plaza, Suite 800, Tacoma, WA 98402
Phone: 253.573.1877 (Ellin Bursese, Executive Assistant)
Cell: (b)(6) for LBR, (b)(6) for JDM (b)(6)
Email: ceo@avuetech.com
Web: www.avuetech.com

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Winn, Kim S (BPA) - NN-1

From: Margeson, Jacilyn R (BPA) - LC-7
Sent: Tuesday, October 08, 2013 2:56 PM
To: Kundu, Sanjit K (BPA) - NSSF-4; Young, Winston B (BPA) - NSSF-4; Bell, Kevin (BPA) - N-4
Cc: Hawkins, Sarah T (BPA) - LC-7
Subject: 10.08.2013 Avue Chronology
Attachments: 10.08.2013 Avue Chronology.docx

Does this chronology look right? Also, do you have a copy of the draft Avue report sent on Sept. 29?

(b)(5)

[Redacted text block]

(b)(5)

[Redacted text block 1]

[Redacted text block 2]

[Redacted text block 3]

[Redacted text block 4]

[Redacted text block 5]

Message

From: Young,Winston B (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=WBY8256]
Sent: 7/19/2013 9:23:15 PM
To: Avue Co-CEOs [CEO@avuetech.com]; Kundu,Sanjit K (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=SKK1567]
Subject: RE: Briefing Slide Deck - RE: BPA Audits

Thank you very much.

From: Avue Co-CEOs [mailto:CEO@avuetech.com]
Sent: Friday, July 19, 2013 2:15 PM
To: Young,Winston B (BPA) - NSSF-4; Kundu,Sanjit K (BPA) - NSSF-4
Subject: Briefing Slide Deck - RE: BPA Audits

Sanjit and Winston,

On July 3rd, I briefed Anita Decker concerning next steps with respect to the audit results from the DOE and OPM audits. The attached slide deck covers our conversation and agreement regarding near-term action items. We also discussed the 100% case reconstruction process and how we would proceed with moving forward on that based on a shared belief that the case reconstruction was a critical path item for restoration of authorities to BPA. DOE has approved and authorized seven Avue personnel to conduct this an ongoing hiring activities, including merit promotion and classification, while BPA undergoes the restoration process.

This slide deck was not shared with anyone else at BPA unless Anita distributed it; however, I sent it to Dave Clark today to make sure he was aware of the discussion and what issues were raised. Besides Anita and myself, Dan Creamer from Avue was in attendance at this meeting.

Thanks, Linda and Jim

Linda E. Brooks Rix and James D. Miller

Co-Chief Executive Officers
Avue Technologies Corporation
1145 Broadway Plaza, Suite 800, Tacoma, WA 98402
Phone: 253.573.1877 (Ellin Bursese, Executive Assistant)
Cell: (b)(6) for LBR, (b)(6) for JDM (b)(6)
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Message

From: Avue Co-CEOs [CEO@avuetech.com]
Sent: 7/19/2013 9:15:07 PM
To: Young, Winston B (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=WBY8256]; Kundu, Sanjit K (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=SKK1567]
Subject: Briefing Slide Deck - RE: BPA Audits
Attachments: July 02 2013 Executive Briefing re Audit Issues.pdf

Sanjit and Winston,

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Thanks, Linda and Jim

Linda E. Brooks Rix and James D. Miller

Co-Chief Executive Officers

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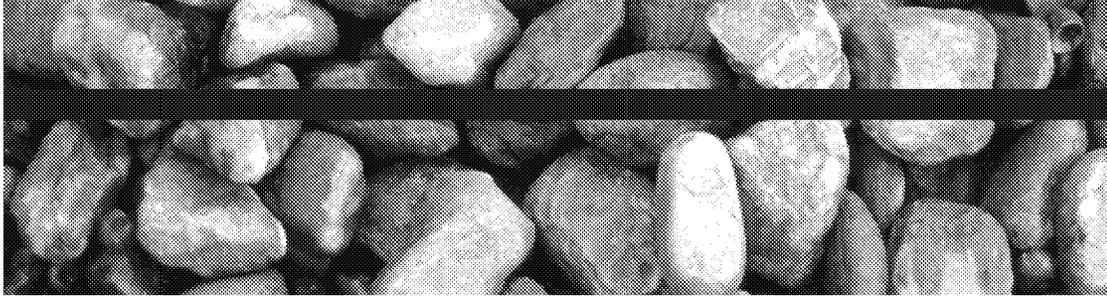
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B O N N E V I L L E
P O W E R A D M I N I S T R A T I O N



BPA Audit Issues and Findings



April 2, 2010 Memo

BPA Evaluation Guide Regarding DOE Guidance Memoranda Applicability

General Applicability of DOE Policies

General References

April 2, 2010 Memo to DOE from BPA

❖ **BPA April 2010 Memo to DOE:**

▪ This memo is intended to provide support and justification for BPA's request to adopt the following principle regarding applicability of DOE Human Resources (HR) directives to BPA. This principle is consistent with the Secretary's delegation of authority to the BPA Administrator (**Delegation Order No. 00-033.00B**), the Department's recent Order 251.1C, and the long-standing operating practice between the Department and BPA.

▪ If a current HR directive is not applicable to BPA, it is presumed that a modification of the directive will not be applicable to BPA absent a compelling Department need. If BPA's systems and processes already address the concerns giving rise to a new Directive, it is presumed that the new directive will not apply to BPA absent a compelling Department need.

❖ **BPA's DOE Guidance Memoranda, last modified 09 20 2012**

▪ Not applicable to BPA. BPA is not covered by Chapter 7 (VII) - Position Classification, therefore Guidance Memo does not apply.

❖ **Presidential Memorandum, Improving the Federal Recruitment and Hiring Process | May 11, 2010**

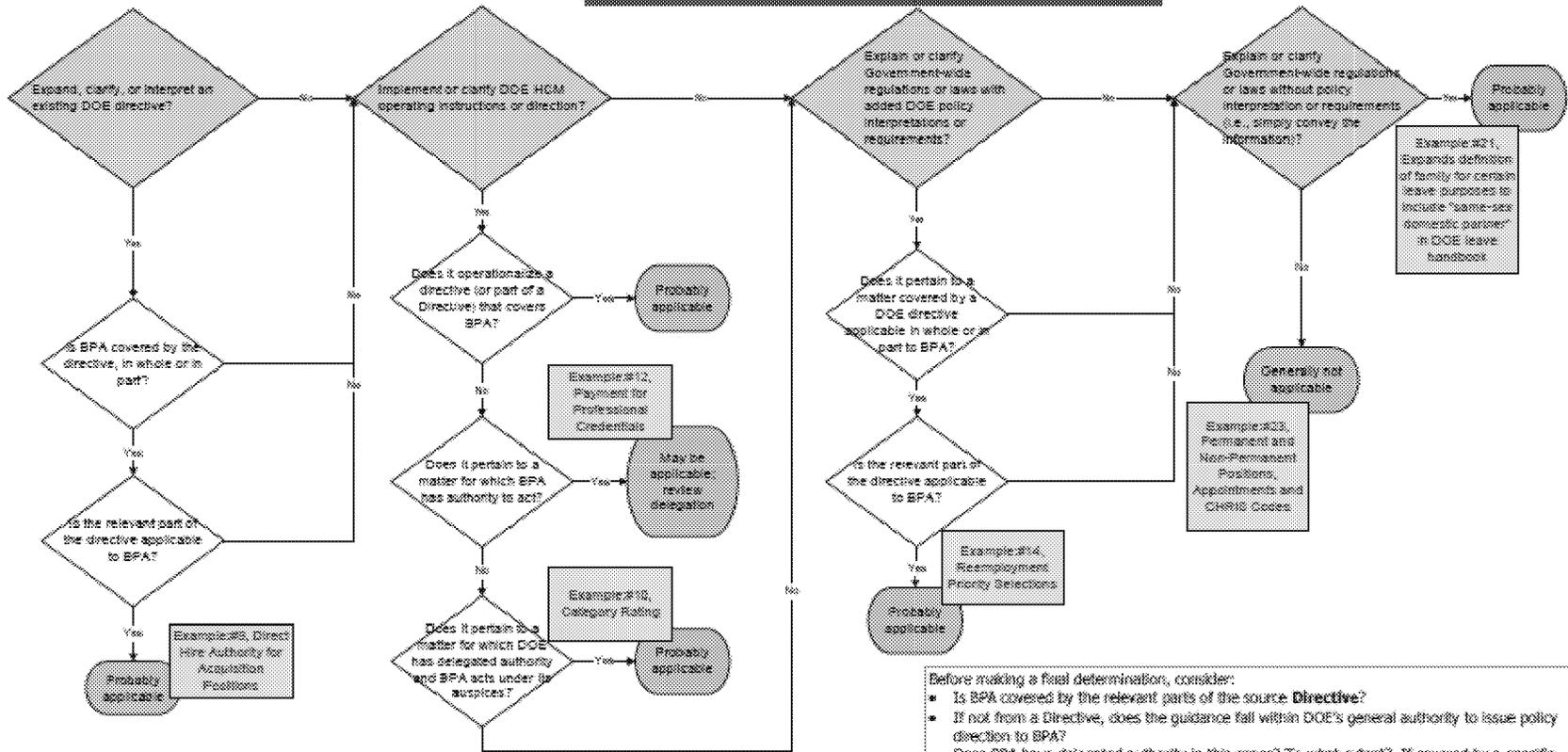
▪ "Sec. 5. General Provisions. (a) Except as expressly stated herein, nothing in this memorandum shall be construed to impair or otherwise affect: (1) authority granted by law or Executive Order to an agency, or the head thereof..."

BPA DOE Applicability Guide



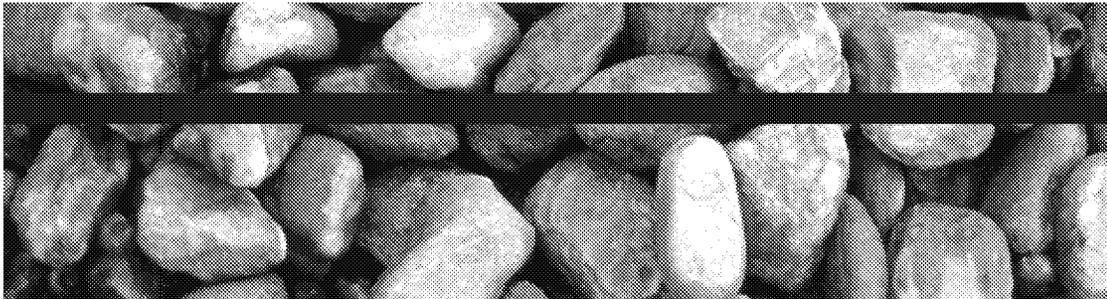
Evaluating applicability to BPA is a challenging process. Begin in the yellow boxes by asking, Does the memo...? Then move through the flow chart.

DOE Guidance Memoranda Applicability to BPA Evaluation Guide



Before making a final determination, consider:

- Is BPA covered by the relevant parts of the source **Directive**?
- If not from a Directive, does the guidance fall within DOE's general authority to issue policy direction to BPA?
- Does BPA have delegated authority in this space? To what extent? If covered by a specific **Delegation Order**, does the Order provide any limitations or requirements in the exercise of authority?
- Does the guidance derive from **law or regulation**? Does the law or regulation apply to BPA? Does DOE's guidance mandate a policy or action to be taken? Does BPA have any delegated authority that would exclude it from the mandated policy or action while still complying with the substance of the regulation or law?
- Consider the source and intent of the memo.



DOE 'Policy'

DOE Current Practices

OPM USA Staffing Examples

Use of KSA Narratives



Presidential Memorandum -- Improving the Federal Recruitment and Hiring Process | May 11, 2010

- ❖ “Moreover, agency managers and supervisors must assume a leadership role in recruiting and selecting employees from all segments of our society. Human resource offices must provide critical support for these efforts.”
- ❖ Agency heads shall take the following actions no later than November 1, 2010:
 - (a) consistent with merit system principles and other requirements of title 5, United States Code, and subject to guidance to be issued by the Office of Personnel Management (OPM), adopt hiring procedures that:
 - (1) eliminate any requirement that applicants respond to essay-style questions when submitting their **initial** application materials for any Federal job;

DOE HR Action Plan : 10 06/07 2010

Improving DOE Recruitment and Hiring Process



Action Item #1: Streamline all Job Opportunity Announcements and standardize them to the maximum extent possible throughout the Department, eliminating essay questions associated with knowledge, skills, and abilities and minimizing the number of short answer questions. Require only a résumé and an optional cover letter by November 2010.

- *Why Selected:* This item will reduce the time needed to complete recruitment packages and job announcements by an estimated 3 days. It will also make the job announcement and application process for potential applicants easier to understand and more user friendly. Mitigates process issue (1st Why) identified through root cause analysis, and addresses the following initiatives in the President's Memorandum dated May 11, 2010: no long essay questions tied to knowledge, skills, and abilities upon initial application; résumé only; and quality/speed of hiring.
- *Barriers:* Normal human tendency to resist change, and demonstrating that eliminating essay questions and relying on résumés will streamline the hiring process and yield high quality candidates. Current Hiring Manager perception is that eliminating long essays associated with knowledge, skills, and abilities will reduce the quality of candidates that appear on certificates. There is also concern that it will take longer and will be harder for Human Resources Specialists and/or Subject Matter Experts to identify the best qualified candidates to appear on certificates.
- *Responsible Parties and Key Staff:* Human Resources Specialists and Resources Staff (Lead) in consultation with Sub Executives and Resources Staff
- *Outputs/Deliverables:* Human Resources Offices will be able to report on a daily basis the numbers of new streamlined Job Opportunity Announcements developed and the percentage of streamlined Job Opportunity Announcements used in relationship to the total number of Job Opportunity Announcements issued during the period. This will also become part of the Department's HCMAP Accountability Program. Actual timeframe to accomplish Announcement Preparation for each Human Resources Office and the Department as a whole is captured in the current release of the automated tracking system.
- *Tracking Methods/Measures:* When the automated time-to-hire tracking system is upgraded in December 2010, Human Resources Offices will be able to report on a daily basis the numbers of new streamlined Job Opportunity Announcements developed and the percentage of streamlined Job Opportunity Announcements used in relationship to the total number of Job Opportunity Announcements issued during the period. This will also become part of the Department's HCMAP Accountability Program. Actual timeframe to accomplish Announcement Preparation for each Human Resources Office and the Department as a whole is captured in the current release of the automated tracking system.

DOE – Current Practice

- ❖ **DOE Instructions to Applicants:** “Your application and resume should demonstrate that you possess the following knowledge, skills and abilities (KSAs). Do not provide a separate narrative written statement. *Rather, you must describe in your application how your past work experience demonstrates that you possess the KSAs identified below. Cite specific examples of employment or experience contained in your resume and describe how this experience has prepared you to successfully perform the duties of this position. DO NOT write "see resume" in your application!*”
- ❖ No policy or directive has been issued by DOE regarding use of narratives other than instructions to applicants on other DOE job postings using the Monster/QuickHire system.
- ❖ TVA uses a résumé-only process and does not use KSAs.
- ❖ Agencies using OPM’s USASTaffing, the SEC and FLRA, require narratives for KSAs on initial application.
- ❖ OPM has approved KSA narratives for DOJ use in Avue’s Part I / II process.

SWPA Example



*** 8. Check the ONE block below that best describes your expertise with the application of civil/seismic and construction codes and standards, as well as relevant DOE Directives (e.g., DOE O 413.3B, DOE STD 1020-2012, DOE STD 1189, etc).**

- I have had education or training in performing this task, but have not yet performed it on the job
- I have overseen or reviewed contractor prepared seismic analyses.
- I have a limited years of specialized experience in conducting seismic analysis and/or providing professional consulting advice for seismic analysis for nuclear or high hazard facilities.
- I have extensive years of specialized experience in conducting seismic analysis and/or providing professional consulting advice for seismic analysis for nuclear or high hazard facilities.

*** 9. For your answer for question #8 above, please briefly identify where in your resume where the experience is documented, i.e.: name of organization/company, From & To dates of employment, title of your position.**

Enter NA if Not Applicable.

250 characters left (250 character limit)

SEC USA Staffing Example, Q3



Application Manager

Vacancy ID: 918184

Biographic Information

Eligibility Information

Other Information

Assessment Questionnaire

Section 1

Section 2

Section 3

Section 4

Section 5

Section 6

Section 7

Re-Use Documents

Upload Documents

Submit My Answers

View/Print My Answers

Job Title: Attorney Adviser

Announcement Number: 13-EX-918184-FB USAJOBS Control Number: 346610100

Applicant Name:

Previous

Next

Save

* Required information

Section 3

Total Questions in this Assessment: 4

3. Please select the item below that best describes your level of experience.

- A. I have at least two years of specialized experience as a practicing attorney (in the private sector or public sector) one year of which includes providing advice on issues and policies related to the Federal securities laws, statutes, rules and regulations, particularly those related to municipal securities. Experience must include conducting legal research and analysis.
- B. I have at least three years of post J.D. experience as a practicing attorney (in the private sector or public sector) two years of which include providing advice on issues and policies related to the Federal securities laws, statutes, rules and regulations, particularly those related to municipal securities. Experience must include conducting legal research and analysis and analyzing and interpreting new and proposed legislation and implementing regulations.
- C. My level of experience is less than that as described above and therefore, am ineligible for this position.

Previous

Next

Save

SEC USA Staffing Example, Q4



Application Manager

Vacancy ID: 918184

Biographic Information
Eligibility Information
Other Information
Assessment Questionnaire
Section 1
Section 2
Section 3
Section 4
Section 5
Section 6
Section 7
Re-Use Documents
Upload Documents
Submit My Answers
View/Print My Answers

Job Title: Attorney Adviser
Announcement Number: 13-EX-918184-FB USAJOBS Control Number: 346610109
Applicant Name:

Previous Next Save

* Required Information

Section 4

Total Questions in this Assessment: 4

Do not overstate or understate your level of experience and demonstrated capability. You should be aware that your rating is subject to evaluation and verification based on the resume, narratives, and other supporting documentation. Later steps in the selection process are specifically designed to verify your stated level of experience and demonstrated capability. Deliberate attempts to falsify information may be grounds for non-selection.

Narrative

In the text box below, please describe your experience as it relates to your knowledge of laws, rules, and regulations that govern the securities industry, in particular, the Federal securities laws involving municipal securities or other legal aspects of municipal securities. Failure to demonstrate your qualifications may result in being considered not highly qualified for the position.

Previous Next Save

FLRA USA Staffing Example



Application Manager Help

Vacancy ID: 913018

- Geographic Information
- Eligibility Information
- Other Information
- Assessment Questionnaire
 - Section 1
 - Section 2**
 - Section 3
- Re-Use Documents
- Upload Documents
- Submit My Answers
- View/Print My Answers

Job Title: Attorney-Advisor
Announcement Number: FLRA-13-913018 USAJOBS Control Number: 346064800
Applicant Name: BIG A YET!

[Previous](#) [Next](#) [Save](#)

* Required information

Section 2 Total Questions in this Assessment: 15

4. Narrative
Describe your ability to research and write about complex legal issues, including those related to labor and employment law, and/or questions of statutory and regulatory interpretation.
* Required

[Check Spelling](#)

Please select the letter corresponding to the statement that most clearly and accurately describes your HIGHEST level of experience

4. Knowledge of the Federal Service Labor-Management Relations Statute and other laws, rules, and regulations involving labor-management relations, such as the National Labor Relations Act.

- A. I do not have knowledge of the Federal Service Labor-Management Relations Statute and other laws, rules, and regulations involving labor-management relations, such as the National Labor Relations Act.
- B. I have some knowledge of the Federal Service Labor-Management Relations Statute and other laws, rules, and regulations involving labor-management relations, such as the National Labor Relations Act. My work is/was closely reviewed by a supervisor or senior employee.
- C. I have knowledge of the Federal Service Labor-Management Relations Statute and other laws, rules, and regulations involving labor-management relations, such as the National Labor Relations Act. My work requires general oversight by a supervisor or senior employee.
- D. I have knowledge of the Federal Service Labor-Management Relations Statute and other laws, rules, and regulations involving labor-management relations, such as the National Labor Relations Act as a regular part of my job. Because of my knowledge in this area, I am normally the person who is consulted by others to provide guidance, instruction, or advice.

5. Experience in developing and analyzing facts.

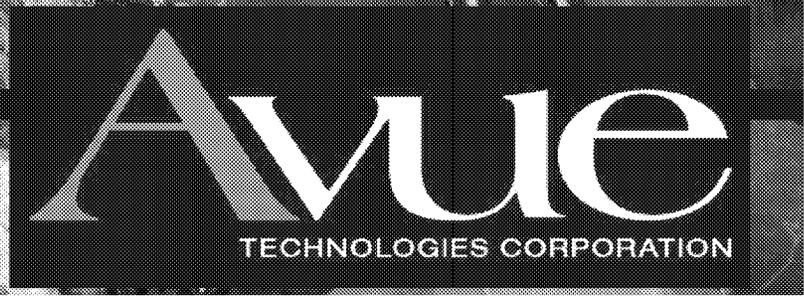
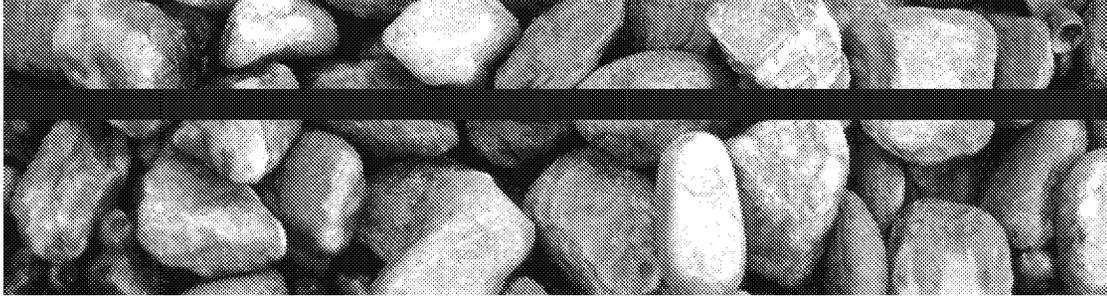
- A. I do not have experience in developing and analyzing facts.
- B. I have experience in developing and analyzing facts. My work is/was closely reviewed by a supervisor or senior employee.
- C. I have experience in developing and analyzing facts as a regular part of my job. My work requires general oversight by a supervisor or senior employee.
- D. I have experience in developing and analyzing facts as a regular part of my job. Because of my experience in this area, I am normally the person who is consulted by others to provide guidance, instruction, or advice.

[Question](#)

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Avue Part I & Part II Process

- ❖ Specifically authorized by OPM Philadelphia Office
- ❖ DOJ Inquiry
- ❖ Will request written interpretation.



DOE Statements
Regulatory Citations
Prior Audits

Issues Raised in DOE and OPM Audits

Other Staffing Issues

- ❖ Manager Access During the Post-Posting and Pre-Certificate Phases
- ❖ Use of Overly Narrow Specialized Experience Requirements
- ❖ Improper Application of OPM Basic Qualifications Standards and Role of the HRA
- ❖ Skill Level of NHQ Staff



Presidential Memorandum -- Improving the Federal Recruitment and Hiring Process | May 11, 2010

- ❖ “Moreover, agency managers and supervisors must assume a leadership role in recruiting and selecting employees from all segments of our society. Human resource offices must provide critical support for these efforts.”
- ❖ Agency heads shall take the following actions no later than November 1, 2010:
 - (b) require that managers and supervisors with responsibility for hiring are:
 - (1) more fully involved in the hiring process, including planning current and future workforce requirements, identifying the skills required for the job, and engaging actively in the recruitment and, when applicable, the interviewing process; and

Regulatory Citations

❖ 5 USC § 2301. MERIT SYSTEMS PRINCIPLES

- (b) Federal personnel management should be implemented consistent with the following merit system principles: Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

❖ 5 USC § 2302 - PROHIBITED PERSONNEL PRACTICES

- 11 (A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or (B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or (12) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title.
- ❖ DOE presumes that viewing candidates prior to certificate generation is equal to a merit system violation.
- ❖ DOE Statement: "Unless it is expressly permitted, we are taking the stance that it is prohibited."
- ❖ There are no regulations or case law that prohibits managers from engaging in the hiring process and reviewing candidates prior to certificate generation including participation in the ranking panel process.

OPM Audit and Other Findings

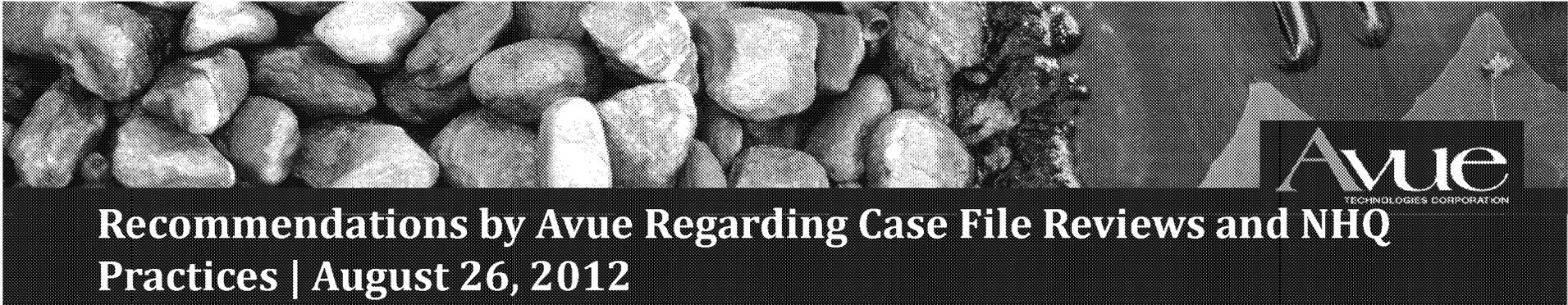
- ❖ Avue has two features that DOE is calling into question.
 - 1. Test List Functionality
 - 2. Managers viewing candidates post-posting and pre-certificate generation.
- ❖ Test-List Functionality has been in Avue since 2001 and never been questioned in an OPM audit or an agency internal audit.
- ❖ Manager views were added after the hiring process memo was released in order to provide managers with information, metrics, and views into how their recruitment was going.
- ❖ In OPM audits, questions related to Avue functionality have included the following:
 - How does Avue generate the random number for tie-breakers?
 - How is the algorithm structured to score candidates in the competency-based assessment process?
 - Specific references to Avue in the text of the vacancy announcement are inappropriate and may lead to the appearance of an endorsement.
- ❖ No audits by OPM or internal agency conducted accountability audits have had any other questions, issues, or findings with regard to Avue functionality.
- ❖ Avue has an Interconnection Agreement with OPM to transfer data into Avue for job applicants and to transfer the four notification points into USAJOBS for the agency's applicant profiles there.
- ❖ Avue functionality has never had an adverse finding in any employment litigation or internal or other employment investigation.



Findings by Avue Regarding Case File Reviews and NHQ Practices

August 26, 2012

1. Level Definitions of KSAs: In some cases, it was difficult to distinguish between the level definitions.
2. KSAs Absent Supportable Measures
3. Use of KSAs as De facto Screen-Out Elements: BPA is using the KSA as a screen-out/selective placement factor. There is no indication of the screen-out/selective placement factor on the vacancy announcement as required in DEOH, Chapter 3, Section C, Create a Job Announcement.
4. Lack of Clear Guidance on the Rules for Panel Scoring
5. Inconsistent and Unstructured Case File Management: Case files maintenance is a particularly notable problem.

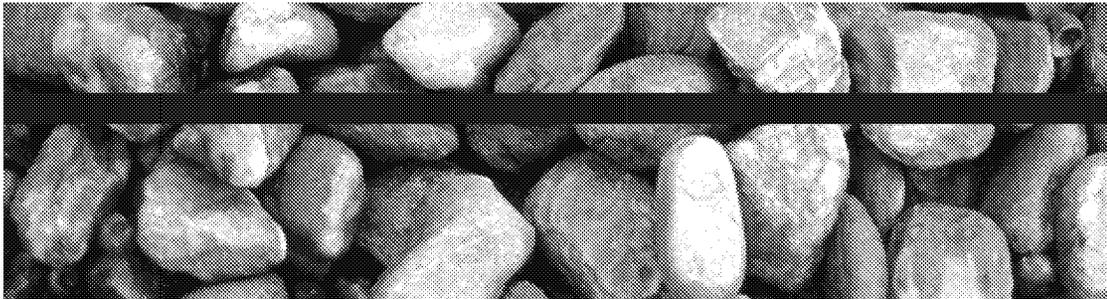


Recommendations by Avue Regarding Case File Reviews and NHQ Practices | August 26, 2012

1. Identify Any Patterns in the Vacancies where Cut-off Scores Were Used.
2. Rewrite the Standard Operating Procedure on Category Rating.
3. Analyze the Applicant Pools of Vacancies with Large Numbers of Applicants to Increase the Quality of Basic Qualifications Screening.
4. Incorporate Avue's Assessment Process into Applicant Review.
5. Identify RSAs, HRAs and Selecting Officials Needing Additional Information/Training.
6. Address all Cases with Legal Violations.
7. Case File Management. The DEO Handbook offers guidance on what should be maintained as part of a case file.
8. Finally, BPA should determine how it will deal with the lost consideration cases created by the use of cut-off scores. If BPA determines that it should not have used cut-off scores, those cases where lost employment occurred as a result of this practice should be addressed immediately.

OPM and DOE 'Findings'

- ❖ Need detailed case listings from DOE and OPM
- ❖ Thus far, the general and broad conclusions presented by DOE to BPA are not regulatory violations as related to Title 5.
- ❖ Category rating violations, which have been deemed violations of veterans' preference, are due to deviations of BPA's own category rating policy. Category rating policies are established individually by agency and not by across the board regulations as defined by statute or OPM.
- ❖ Use of overly narrow qualification requirements or improper application of OPM qualification standards may violate the Uniform Guidelines on Employee Selection Procedures and BPA likely has violations of the procedures in OPM's DEOH that may result in adverse consequences to veterans as a result of these requirements or how they are interpreted.
- ❖ OPM and DOE are charging BPA with 100% case reconstruction to determine if other violations have occurred. It is highly likely that this will be a predecessor activity to BPA having hiring authority restored by DOE.



Definition of 'Agency'

Review of CHCO Position Classification

BPA Coverage of DOE Classification Directives

Classification Issues

DOE Classification Issues

❖ BPA's DOE Guidance Memoranda, last modified 09 20 2012

Not applicable to BPA. BPA is not covered by Chapter 7 (VII) - Position Classification, therefore Guidance Memo does not apply.

❖ DOE 320.1 | REQUIREMENTS

General. Human resources officer and chief classifier positions must be classified by or under the direction of the senior human resources officer at the next higher level in the organization. In no case may human resources officers (or any of their subordinates) classify their own positions or that of their senior human resource specialist (classification) positions.

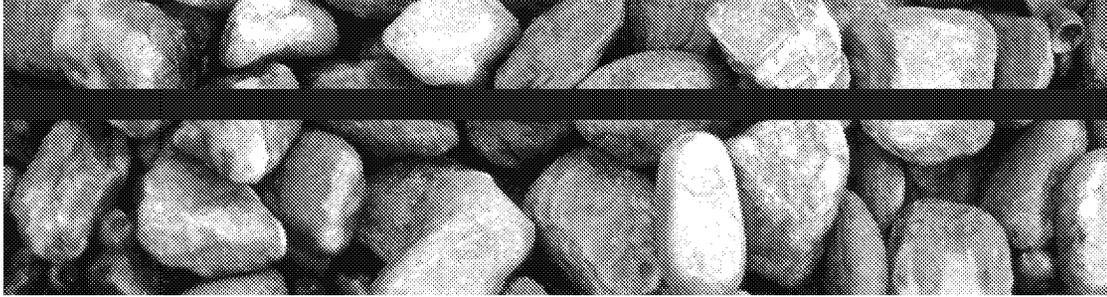
❖ Impact Analysis on BPA for Non-Supervisory GS-13/14/15 Positions

❖ DOE Issues:

- Use of language from the classification standard in the PD
- BPA is not an 'agency' for classification purposes

❖ Review Avue Policy Analysis

- High Grade 1-Grade Interval Jobs
- Non-Supervisory GS-14/15 Crediting Factor 1-8 and 2-5
- Position Management Governance Board Structure



Recommendations for Approach
Near-Term Next Steps

Recommendations

Recommendations & Resolution

Staffing

- ❖ Take no individual actions unless a specific regulatory violation is identified.
- ❖ Unless considered of value to BPA, do not change any processes without first determining that a regulatory violation has occurred *and* proven to be a pattern and practice.
- ❖ Adhere to the review process initially established jointly by Avue and BPA HCM management.
- ❖ Ascertain what DOE believes to be the process for activating hiring immediately.
- ❖ Continue with deactivation of the manager's view of candidates until BPA determines a different process for engagement is valuable.

Classification

- ❖ Focus on management's right to assign work and the right to structure BPA in accordance with its mission requirements.
- ❖ Utilize the right to assign work to suspend any adverse actions related to job classification until sufficient position management reviews are conducted and internal position management controls are in place.
- ❖ Write BPA-unique policies that interpret the classification standards in a manner that relates to the mission and proper execution of the mission.
- ❖ Review and determine which positions are 'interchangeable' between BFTE and CFTE for classification purposes – to use the 'constructed' grade for classification purposes especially for positions that may appear non-supervisory in the classic sense.

A Few Next Steps – Near Term

- ❖ Conduct thorough manager training and institute a communications plan regarding the current hiring process and improvements to it and BPA's policy on position management and classification.
- ❖ Activate the position management governance board process.
- ❖ Hire a Chief of Classification to reside in NHI – ensure the criteria for candidate assessment is heavily focused on federal classification experience to include appeal adjudication if possible.
- ❖ Hire a replacement for the NHQ supervisory position that has very clear and directly applicable federal staffing and classification credentials and has experience with successful audits and staffing operations management.
- ❖ Determine how NH should be structured to provide immediate opportunities to regain authorities and provide DOE and OPM with assurances there are sufficient internal controls within BPA.

Message

From: Avue Co-CEOs [CEO@avuetech.com]
Sent: 9/23/2013 2:42:30 AM
To: Young, Winston B (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=WBY8256]; Kundu, Sanjit K (BPA) - NSSF-4 [/O=BPA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=SKK1567]
Subject: Analysis of Audit Results for BPA

Sanjit and Winston, we are nearly complete with respect to the reports for BPA. We will have a complete analysis of the dueling audit reports as well as a fit-gap analysis regarding DOE/OPM required and recommended actions as related to the feature/functionality delivered under our contract with BPA. We thought it important to tie in the features required under the contract and associate them to each required action in order to illustrate that, by using Avue, BPA would have essentially completed all required actions mandated by either DOE or OPM. We hope to have this to you by close of business Tuesday. Also, our offer still stands to provide BPA executives with a full briefing. Thanks very much, Linda and Jim

Linda E. Brooks Rix and James D. Miller

Co-Chief Executive Officers

Avue Technologies Corporation

1145 Broadway Plaza, Suite 800, Tacoma, WA 98402

Phone: 253.573.1877 (Ellin Bursese, Executive Assistant)

Cell: (b)(6) for LBR, (b)(6) for JDM (b)(6)

Email: ceo@avuetech.com

Web: www.avuetech.com

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Winn, Kim S (BPA) - NN-1

From: Young, Winston B (BPA) - NSSF-4
Sent: Tuesday, October 08, 2013 4:44 PM
To: Kundu, Sanjit K (BPA) - NSSF-4; Margeson, Jacilyn R (BPA) - LC-7; Bell, Kevin (BPA) - N-4
Cc: Hawkins, Sarah T (BPA) - LC-7
Subject: RE: 10.08.2013 Avue Chronology

Hi Jaci,

Well stated. No additional comments.

I concur with Sanjit's clarification of the competitive award.

Thanks,
Winston

Winston B. Young

Contract Specialist
Bonneville Power Administration
Mail Stop NSSF-4, P.O. Box 3621
Portland, OR 97208
Phone: 503.230.3603

From: Kundu, Sanjit K (BPA) - NSSF-4
Sent: Tuesday, October 08, 2013 4:00 PM
To: Margeson, Jacilyn R (BPA) - LC-7; Young, Winston B (BPA) - NSSF-4; Bell, Kevin (BPA) - LC-7
Cc: Hawkins, Sarah T (BPA) - LC-7
Subject: RE: 10.08.2013 Avue Chronology

Hello Jaci –

I think that you have captured everything accurately with the exception of the first sentence. This acquisition was fully competed (against Monster, DOE's hiring system) over the course of almost a year. I have attached the Document of Award Decision.

Please let me know if you have any questions. Winston has come back from his training class and will review this and provide any additional comments.

Thanks,
SKK

Sanjit K. Kundu
IT Contracts Administrator
NSSF - IT, Supplemental Labor, & Professional Services Purchasing
Bonneville Power Administration
U.S. Department of Energy
Mail Stop NSSF-4, P.O. Box 3621
Portland, Oregon 97208
Phone: 503-230-3518
Fax: 503-230-4508

From: Johnson,G Douglas (BPA) - DKPM-7
Sent: Wednesday, October 09, 2013 3:54 PM
To: Mainzer,Elliot E (BPA) - A-7; Margeson,Jacilyn R (BPA) - LC-7; Cogswell,Peter (BPA) - DK-7; Bell,Kevin (BPA) - N-4
Subject: AP request for Avue report

The new AP reporter in the Portland Bureau I was working with yesterday has asked for a copy of the Avue report. She called Avue and requested it. They replied that they have now delivered the report to us, and she would have to get a copy from us. Given what we are sending to Ben by the end of the day, I would suggest we send her this:

(b)(5) [Redacted]

Thoughts.

Doug Johnson
503-230-5840