UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 11, 2018

MEMORANDUM TO: Dr. Brett M. Baker
Assistant Inspector General for Audits
Office of the Inspector General

FROM: Daniel H. Dorman ***/RA/***
Acting Deputy Executive Director for Materials, Waste, Research, State, Tribal, Compliance, Administration and Human Capital Programs
Office of the Executive Director for Operations

SUBJECT: FORMAL COMMENTS ON OFFICE OF THE INSPECTOR GENERAL'S DRAFT REPORT "AUDIT OF NRC'S EXERCISE OF ITS EARLY OUT/BUYOUT AUTHORITY" DATED AUGUST 28, 2018

This memorandum and its enclosures respond to the email dated August 28, 2018, from the Office of the Inspector General (OIG) providing the Draft Report, "Audit of NRC's Exercise of Its Early Out/Buyout Authority." The U.S. Nuclear Regulatory Commission (NRC) staff appreciates the opportunity to comment on the draft audit report.

Based on a review of the draft report and discussions with the Office of Personnel Management (OPM), the NRC staff concludes that we are compliant with the regulations in Title 5 of the *Code of Federal Regulations* (5 CFR) Part 576, Subpart A, "Voluntary Separation Incentive Payments," and 5 CFR 831.114, "Voluntary early retirement-substantial delayering, reorganization, reduction in force, transfer of function or other workforce restructuring." The attached enclosure provides detailed comments in response to the draft report.

The staff agrees with the OIG's recommendations to conduct a formal evaluation to assess the value of Voluntary Early Retirement Authority/Voluntary Separation Incentive Payments (VERA/VSIP) as a workforce restructuring tool and to develop generic VERA/VSIP written procedures. The NRC appreciates the collaborative effort demonstrated by OIG and Office of the Chief Human Capital Officer (OCHCO) staff during this audit process and thanks OIG for the opportunity to comment.

Enclosure:
Staff's Comments on Draft Audit Report

CONTACT: Bi Smith, OCHCO/HROP
(301) 287-0553

U.S. NUCLEAR REGULATORY COMMISSION (NRC) STAFF'S COMMENTS ON OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT "AUDIT OF NRC'S EXERCISE OF ITS EARLY OUT/BUYOUT AUTHORITY"

Finding: Unclear Program Goals

The staff disagrees that the agency had unclear program goals. While the rationale behind the 2015 and 2016 VERA/VSIP requests (along with the 2017 amendment) were different, each request delineated clear and quantifiable goals. Further, the 2015 VERA/VSIP request was based on the Commission's direction in Staff Requirements Memorandum (SRM)-SECY-15-0015 to rebalance resources devoted to corporate management, supervisory, and senior project management work. The rationale for the agency's 2016 VERA/VSIP request was to address functions that could be shed, de-prioritized, or performed with fewer resources as a result of a 2016 re-baselining review. The 2017 amendment reflected need for further reduction in corporate support resources in light of the agency re-baselining reductions and other restructuring initiatives.

In addition, the staff disagrees that the NRC did not have specific targets for the number of employees NRC wanted or expected to separate. The agency identified the appropriate positions that needed to be eliminated or restructured to achieve the identified program goals and determined a maximum number of VSIP slots that the agency was requesting. The plans provided to the Office of Personnel Management and Office of Management and Budget (OPM/OMB) outlined these surplus positions in the agency and where VERA/VSIP could help increase voluntary attrition.

Furthermore, the staff disagrees that the VERA/VSIP was not consistent with the NRC's strategic plan and that program offices were not clear on how to identify their surplus positions. The NRC's VERA/VSIP authority was consistent with the FY 2014 – 2018 strategic plan. A key human capital objective in the strategic plan was to maintain a qualified and flexible staff and to hire the best talent to carry out the mission now and in the future. Due to the agency's dynamic environment, projecting future staffing requirements necessitates an evaluation of both internal and external factors, which in 2014 was accomplished through Project AIM and subsequent initiatives. The specific surplus positions identified in these subsequent initiatives were determined at the office level. While the agency used Project Aim to prepare for the future, it cannot request VERA/VSIP on anticipated scenarios. In all requests, our positions were identified based on known decisions by the agency. Validating this point is the OPM Top 10 Frequently Asked Questions on VERA/VSIP, which addresses how it may only be authorized based on a known decision or circumstance:

> ***4. Can my agency get approval to offer a VERA and/or VSIP based on an anticipated scenario (e.g., a possible budget shortfall or possible reorganization requiring additional approval)?***
> *A VERA and/or VSIP can only be authorized when an agency is responding to a known decision or circumstance (vs. an uncertain or possible scenario). Note that decisions made under an agency head's authority to reorganize, re-prioritize, reduce, etc., are a valid basis for requesting VERA and/or VSIP.*

In alignment with the NRC's strategic plan, the agency also ensured that the VERA/VSIP was not offered to any positions that would prevent the agency from achieving its future and current needs. During each VERA/VSIP window, the agency excluded any positions that would require external hiring action and has not attempted to fill a position (via an external hire) that was identified to be abolished/restructured.

Lastly, the staff disagrees that the agency did not have a specific estimate for how much the program would cost or set a goal for the payroll savings. Since VERA/VSIP is a tool for voluntary attrition, the agency would not know the exact number of employees who would accept until offered the opportunity. However, NRC was prepared financially to pay for all of the slots requested. The agency knew that the cost of each VSIP payment would not exceed $25 thousand, and that there was a small fee to be paid to OPM to process the VERA/VSIP. The Office of the Chief Financial Officer ensured there was available funding to pay for these costs as well as any associated payout of leave (e.g., annual leave, credit hours, compensatory time off). The savings realized in the first and second VERA/VSIP authority represented a costs savings of approximately $31 million a year, based on the average full-time equivalent (FTE) salary and benefits rate budgeted in FY 2016.

Finding: Documentation Could Be Improved

The staff disagrees that the NRC used two systems to track the information related to the abolishment/restructuring of positions specified in our VERA/VSIP requests and that it did not track the appropriate information. The agency used one process that tracked all information related to the abolishment/restructuring of positions specified under our VSIP authority in 2016. The agency intentionally kept the tracking of these positions from the previous authority in 2015. The process NRC used to track the abolished/restructured positions was the most efficient option available and in compliance with our authority.

The VERA/VSIP request to OPM/OMB identified specific positions that the agency wanted to abolish/restructure as part of its workforce reshaping effort (to accelerate voluntary attrition). At the same time, the agency also employed other strategies mentioned in OPM's Workforce Reshaping Handbook such as reassignments, training, details, hiring freezes, and voluntary changes to lower grades. By increasing voluntary attrition, the agency had the flexibility to move employees from surplus positions to higher priority positions that were vacated. It is more efficient to track all positions identified to be abolished/restructured in one location. The manual tracking process included the names of specific employees, how and when the position was vacated, if the position was abolished or restructured, and if others were reassigned into the position (including moving employees into safe positions that were vacated by employees who took the VERA/VSIP).

The other spreadsheet mentioned in the OIG report tracked all employees who applied for the VERA/VSIP for a given round, including tracking the applications received and their eligibility category. In each round, a spreadsheet was created that listed every employee who applied, as well as, other criteria to verify the employee met VERA and/or VSIP eligibility requirements. This data was not meant to be used to reconcile employees to the surplus positions to be restructured or eliminated.

On May 30, 2018, OCHCO staff met with the OPM VERA/VSIP experts who confirmed the NRC's understanding regarding tracking of positions identified to be abolished/restructured. OPM agrees the agency must adhere to the approved plan and is responsible for notifying OPM of any changes or modifications. This may be achieved through any type of attrition, including retirements/resignations/reassignments outside of the VERA/VSIP. On June 1, 2018, OPM confirmed this understanding in writing and the email was previously provided to OIG.

Finding: No Formal Periodic Evaluations

While the agency is not required to conduct a formal evaluation (under VERA/VSIP regulations) to assess the value of a VERA/VSIP as a workforce restructuring tool, the agency was able to determine that the program achieved its intended goals and informally identified opportunities to improve the program's effectiveness after each round. As a result of the VERA/VSIP and other workforce reshaping strategies, the agency was able to mitigate the impact of a reduction in force. In addition, the historical average attrition data supports that offering the VERA/VSIP along with the other strategies employed created significant increases in the attrition rates of offices where a VERA/VSIP was offered. In particular, the attrition rate in FY 2016 was approximately double what it had been in prior years.

Finding: 2016 VERA/VSIP Separations Occurred Late in the FY

The agency does not agree with this finding and the associated practice identified in the report that VSIP recipients should leave early in the fiscal year. While financial benefits can be a factor in timing employee separations through the VERA/VSIP, it is not the only factor to consider. The basis for the agency's 2016 request was not budget driven, but was the result of decisions to right-size the agency, consolidate functions within offices/regions, and re-baseline the work of the agency. In addition, the agency has the right to establish windows and periods for when employees retire/resign through the VERA/VSIP program. The OPM Guide to VSIP specifically states:

> *The agency has the right to establish 'windows;' that is, the time period(s) during which it will accept applications for VSIP and to set the time period(s) for employees to retire or resign for VSIP. If the agency is also offering employees the option of retiring under a VERA, the agency should coordinate the VSIP and VERA windows to maximize the effectiveness of both programs. The agency has many potential options to implement effective VSIP windows for employees.*

Topic 5, Preparing for VSIP, in OPM's Guide to VSIP also encourages agencies to allow sufficient time to maximize the benefit of VSIP. It specifically states:

> *"…to maximize the benefit of VSIP, the agency should allow sufficient time for important decisions such as developing activity or subagency policy on the coverage and application of the authority, preparing the human resources staff, counseling employees, holding retirement seminars, computing annuities for those considering retirement, etc. VSIP often results in an additional major workload for an agency's human resources staff. For example, the agency must inform eligible employees of the VSIP opportunity. The agency must also advise interested employees on the amount of their incentive payment, their annuity and related issues. This process requires additional time and staff when eligible employees are widely dispersed and/or do not have access to a local human resources office."*

Consistent with the OPM VSIP Guide, the NRC thoughtfully considered the timing of its second VERA/VSIP window. The 2016 VERA/VSIP request covered the largest number of slots and groups in recent years. The agency chose the specific window in order to take into account the resources required to process such a large group and to allow employees a reasonable and fair amount of time to consider the impact of their decisions. Specifically, in this situation, our goal was to begin FY 2017 with lower FTE numbers and to complete restructuring through calendar year 2018. This strategy was also communicated in our request, which was approved by OPM and OMB on April 19, 2016.

OCHCO staff met with the OPM VERA/VSIP experts on May 30, 2018, who confirmed that it is within the agency's discretion to establish time period(s) during which it will accept applications for VSIP and to set the time period(s) for employees to retire/resign with VSIP. On June 1, 2018, OPM also confirmed this understanding in writing (email previously provided to OIG).

Recommendation 1: Conduct a formal evaluation assessing the value of VERA/VSIPs as workforce restructuring tools at NRC.

While the NRC informally assessed the value of VERA/VSIPs as workforce restructuring tools, we agree to formally document our evaluation so it can be applied to any future VERA/VSIP requests. Note, many of the topics recommended for inclusion in a formal evaluation addressed (e.g., determining program cost, timing of employee separations, etc.) are required before requesting VERA/VSIR authority and were included in our requests to OPM and OMB, which were approved.

Recommendation 2: Develop written procedures for implementing a VERA/VSIP program.

The NRC agrees that written procedures for implementing a VERA/VSIP program would be beneficial and will determine the best way to integrate VERA/VSIP into the overall strategic workforce planning process and how to determine impacted positions at the office level. Additionally, as noted earlier, we disagree that the agency needs to develop a single system to track positions identified for elimination and restructuring since this process already exists.

SUBJECT: FORMAL COMMENTS ON OFFICE OF THE INSPECTOR GENERAL'S DRAFT REPORT "AUDIT OF NRC'S EXERCISE OF ITS EARLY OUT/BUYOUT AUTHORITY" DATED AUGUST 28, 2018, DATED: OCTOBER 11, 2018.

DISTRIBUTION: EDO ticket# OEDO-18-00456
OCHCO/HROP r/f
BSmith, HROP
EDO Mailroom
ADAMS Accession no. ML18261A115

OFFICE	OCHCO/PLERB	OGC	OCFO	OCHCO/PLERB	OCHCO/HRO P	OCHCO	DEDM (acting)
NAME	*BSmith	*LZaccari	*RAllwein	*BSanford	*JShay	MCohen	DDorman
DATE	9/18/18	9/18/18	9/18/18	9/18/18	9/18/18	10/04/18	10/11/18

OFFICIAL RECORD COPY