

November 30, 2010

Ms. Sophia Angelini
Attorney-Advisor
Office of the General Counsel for Civilian Nuclear Programs
GC-52, U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Ms. Angelini:

Battelle Memorial Institute (Battelle) is a non-profit research and development entity. Because Battelle's research does include nuclear research, Battelle appreciates this opportunity to provide comments in response to the Department of Energy's (DOE's) July 27, 2010 Notice of Inquiry and Request for Comment (Notice) regarding implementation of Section 934 of the Energy Independence and Security Act of 2007 (Act). Section 934 of the Act addresses how the United States will meet its obligations under the Convention on Supplementary Compensation for Nuclear Damage (CSC). Under this section of the Act, DOE is required to develop regulations that will establish a risk pooling program by which U.S. nuclear suppliers will reimburse the United States for its contribution to the international supplementary fund in the event of such a contribution.

Battelle recognizes that the factors set forth in the Act for a risk-informed assessment formula for the risk pooling program are potentially very complicated, but hopes that DOE can ultimately make the formula as simple as possible in order to efficiently and effectively implement the risk pooling program. The formula needs to be sufficiently clear to enable companies to establish accurately the requisite level of reserves to cover that portion of contingent costs that may be allocated to them. This is particularly true for low-volume nuclear suppliers. Further, because data and information regarding nuclear supplier sales and the risks involved in connection with providing the associated equipment, materials and services to these foreign nuclear installations are currently not readily available, Battelle is only able to provide a few general comments at this stage of the planned rulemaking.

While Battelle does provide some services related to certain aspects of nuclear installations overseas, the business volume reflected by these services represents only a very small portion of the overall business volume of Battelle. As suggested in the Notice, this may be an appropriate way to exclude insignificant suppliers. Battelle supports a formula that would exclude entities whose nuclear services sales are only a very small portion of their total sales, unless perhaps

such sales are above a specified amount. However, until more complete information is available on annual nuclear supplier sales and types of sales, such cutoff percentages and minimum amounts cannot be determined.

Battelle also supports excluding entities that only provide a very small portion of the annual total overseas sales by U.S. entities of nuclear equipment, materials and supplies. Such entities would reflect a de minimis or non-material part of such overall sales. Again, such cutoff amounts cannot be established until there is more information available. But Battelle does believe that use of such benchmarks can help to make implementation of this program more manageable.

Finally, some of the services provided by Battelle in this area are not provided to a nuclear installation but rather are provided, as an example, to the regulator in support of the regulator's nuclear installation licensing and oversight responsibilities. Battelle believes that services that are not provided to a nuclear installation should be excluded from the risk-informed assessment formula. Such an interpretation is consistent with the statutory language that indicates that only services "supplied ... to each covered installation outside of the United States" are to be taken into account.

In summary, we believe it is difficult at this stage to provide detailed comments and request that DOE afford future comment opportunities in this rulemaking process as more pertinent information can be gathered and made available by DOE.

Respectfully,



Mark D. Olsen
Associate General Counsel

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