



Department of Energy
Washington, DC 20585

August 11, 2005

MEMORANDUM FOR THE SECRETARY

THROUGH: THE DEPUTY SECRETARY *Clay Seal*
FROM: MICHAEL W. OWEN *Don't fork*
DIRECTOR OF OFFICE OF LEGACY
MANAGEMENT

SUBJECT: **Decision Memorandum: Authorize Changes to Contractor Work Force Restructuring Policy under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993.**

Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (section 3161) was enacted to address certain work force restructuring issues with respect to employees of defense nuclear facilities resulting from the end of the Cold War. To be fair to all contractor employees, the Department broadened implementation of section 3161 to include non-defense sites.

Section 3161 authorizes the use of enhanced benefits (in addition to standard contractual severance, hiring preference, and access to displaced worker medical benefits), to lessen separation impacts. These enhanced benefits have included relocation assistance, tuition reimbursement, and outplacement assistance.

In view of the absence of funding for work force restructuring and downsizing across the complex occurring more frequently and in greater numbers, we are proposing changes to contractor work force restructuring policy under section 3161. These changes will help promote fairness and equity, flexibility to support program goals, and provide consistent administration and the ability to respond to notification concerns of the Department and Congress. Contractor work force restructuring has been and continues to be of very high interest to affected Congressional delegations inasmuch as these contractor jobs are an integral part of local economies.



RECOMMENDATIONS:

1. **Reiterate Departmental policy that the Office of Legacy Management is the Department's focal point for all work force restructuring actions.**

This will address issues related to the application of section 3161 to non-defense sites, which has been questioned. The Office of Legacy Management's implementation guidelines will continue to apply to all facilities.

APPROVE DISAPPROVE _____ DATE 8-16-05

2. **Discontinue the use of early retirement incentives.**

Early retirement incentives are funded through the contractors' pension plans, which are a reimbursable cost to DOE. They are not funded out of the Office of Legacy Management's section 3161 budget. Early retirement incentives should be discontinued to promote contractors' fiscal responsibility and reduce the Department's long term liabilities.

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3. **Preserve "lump sum" payment incentives as an option for use in exceptional cases, subject to the Secretary's approval.**

"Lump sum" payment incentives have been given in lieu of enhanced benefits (i.e., relocation assistance, tuition reimbursement, and outplacement assistance). "Lump sum" payment incentives should be preserved as an option, in order to support the contractors' efforts to more efficiently manage their work force in the interests of the Department.

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4. **Seek relief from section 303 of the Fiscal Year 2005 Consolidated Appropriations Act (section 303) funding restrictions.**

Section 303 requires that all enhanced benefits as authorized by section 3161 be funded through the Office of Legacy Management either directly with work force transition funding, which at this time is zero, or through reprogramming of program funds from the affected program office, with the consent of Congress. Relief from section 303 will allow program offices to directly fund enhanced benefits, as well as "lump sum" payment incentives. Until such time as relief is granted from section 303, all reprogramming requests for enhanced benefits would be coordinated with the Office of Legacy Management.

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5. As requested by the Office of Congressional and Intergovernmental Affairs, institute a 96-hour "HOLD" prior to any work force restructuring announcement. In addition, require two weeks notice to the Office of Legacy Management prior to any work force restructuring activity.

During this 96-hour "HOLD" the Office of Congressional and Intergovernmental Affairs in consultation with the Office of Legacy Management and the Office of Public Affairs will determine who communicates to Congress. The communication process and notification requirements need to be strengthened to ensure Senior DOE management and Congressional representatives are fully informed in the appropriate time frame.

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6. Raise work force restructuring approval thresholds which will allow the contractor more flexibility in managing its work force.

Current approval thresholds:

Up to 50 employees	DOE notification by contractor
50-100 employees	DOE Field Office approval
100-300 employees	Office of Legacy Management approval LM will coordinate NNSA sites for decision by the Under Secretary of Nuclear Security
300 and above employees	Under Secretary approval

Proposed approval thresholds:

Up to 100 employees	DOE notification by contractor
101-200 employees	DOE Field Office approval
201-500 employees	Office of Legacy Management approval
501 and above employees	Under Secretary approval

Note: DOE notification requirements remain intact. In addition, a diversity analysis, required by a separate executive order, will continue to be required for separations of 50 and above within a rolling 12-month period.

APPROVE DISAPPROVE DATE 8-16-05