



Department of Energy
Washington, DC 20585

JM CHRONOLOGY
JM RECEIVED 1/16/14
OUT FOR REVIEW 1/24/14
DRB DISCUSSION 2/10/14

MEMORANDUM FOR INGRID KOLB

DIRECTOR
OFFICE OF MANAGEMENT

THROUGH: KEVIN T. HAGERTY
DIRECTOR
OFFICE OF INFORMATION RESOURCES

FROM: PAUL BOSCO *PBosco*
DIRECTOR
OFFICE OF ACQUISITION AND
PROJECT MANAGEMENT

SUBJECT: Notice of Intent to Revise Department of Energy Order 350.1,
Contractor Human Resources Management Programs, Chapter III,
Reductions in Contractor Employment and Chapter VII, Risk
Management and Liability

PURPOSE: Department of Energy Order (DOE) 350.1 which establishes responsibilities, requirements, and cost allowability criteria for the management and oversight of contractor human resources management programs is being revised to:

- Institutionalize Departmental guidance established by then-Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011, into DOE O 350.1 Chapter III, Reductions in Contractor Employment. This memorandum establishes oversight requirements to facilitate and expedite any necessary contractor workforce restructuring activities.
- Reflect organizational and other types of updates to DOE O 350.1 Chapter III, including the Office of Management's (MA) policy oversight responsibility for reductions in contractor employment.
- Delete any and all references and requirements in DOE O 350.1 Chapter VII, Risk Management and Liability, pertaining to the Department of Energy Retrospective Rating Insurance Plan (DOERRIP) which is no longer available for purchase in the insurance market. Liberty Mutual Insurance, the last insurer to underwrite federally sponsored defense rating programs such as the DOERRIP ceased to underwrite the plan effective September 1, 2012.



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- Remove the Contractor Requirements Document (CRD) from Chapter III and Chapter VII of DOE Order 350.1 and incorporate contractor requirements into the contract via a contract clause. This change is consistent with the removal of CRDs in Chapter IV, Compensation; Chapter V, Benefits; and Chapter VI, DOE Contractor Pension Plans, of DOE Order 350.1 which became effective on October 1, 2013.
- Recognize the planned removal of Chapter 1, Labor Relations and Chapter II, Labor Standards, currently owned by the Office of General Counsel (GC), upon coordination through the RevCom process by GC.

Upon completion of actions contemplated by this Justification, all planned revisions to DOE Order 350.1 will have been completed, including Chapters four through six which were completed in April 2013. For your information, the Office of Health, Safety and Security (HSS) owns Chapter VIII, Contractor Workplace Substance Abuse Programs and Chapter IX, Employee Assistance Programs, and at this time, have no plans to make planned revisions to their respective chapters.

JUSTIFICATION: This directive supports the strategic goal of achieving management and operational excellence by better aligning requirements related to Federal oversight of reductions in contractor employment and contractor risk management and insurance programs. The attached risk assessments indicate that such oversight is necessary to ensure that costs reimbursed for such actions are reasonable pursuant to the Federal Acquisition Regulations (FAR) and that all restructurings comply with section 3161 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102-484, as amended.

The directive is applicable to all departmental elements managing contracts that require Departmental approval of contractor workforce restructuring activities and approval of risk management and insurance programs for reimbursement purposes.

There are no valid external, consensus, or other “standards” (e.g., ISO, VPP, etc.) available, which can be used in place of this directive.

IMPACT: The proposed revision to the directive does not duplicate existing laws, regulations, or national standards, and it does not create an undue burden on the Department. The proposed revision to the directive represents controls needed to address risks, including overpayment of costs.

- Removal of the existing reference in Chapter III to the Office of Worker and Community Transition corrects outdated policy language that is no longer applicable, as MA now has policy oversight responsibility for contractor workforce restructuring activities.

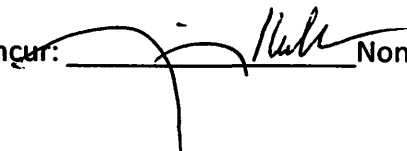
- Removal of existing references in Chapter III to the JOBBS database program and the list of retired scientists and engineers, to reflect that these programs no longer exist.
- Reduces the risks of misinterpretation and conflicts among existing contractual requirements currently in the CRD of DOE O 350.1 Chapter III, and the referenced memo, "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
- Removal of the existing reference in Chapter VII to the DOERRIP corrects outdated policy language that is no longer applicable as the retrospective ratings insurance program is no longer available to DOE contractors for acquiring workers' compensation, general liability, and automobile liability insurance.
- Reduces the risks of misinterpretation and conflicts among existing contractual requirements currently in the CRD of DOE 350.1 Chapter VII, and the Special H Clause of the DOE facility management contracts.

WRITER: Joel Gonzalez, Industrial Relations Specialist, Contractor Human Resources Policy Division, (202) 287-1752

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OPI/OPI CONTACT: Robert M. Myers, Director, Contractor Human Resources Policy Division, (202) 287-1584.

Ingrid Kolb, Director, Office of Management (MA-1):

Concur:  Nonconcur: _____ Date: 2-6-14

Standard Schedule for Directives Development**Days**

Draft Development	Up to 60 days
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30
Total	150

(Note: The standard schedule of up to 150 days will be used unless otherwise specified by the Directives Review Board.)

Attachments

1. Risk Assessment – DOE O 350.1, Chapter III, Reductions in Contractor Employment
2. Risk Assessment – DOE O 350.1, Chapter VII, Risk Management and Liability

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?	of Contracting Activity		Reference
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
Risk Management and Liability Insurance Program	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Low	Moderate	No	No	Chapter VII: Risk Management and Liability Insurance Programs	Delete the word "liability" to cover all forms of insurance prgrams.	Page VII-1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Unlikely	Low	Minor	Yes	No	1. OBJECTIVES. a. To assign responsibilities and authorities for the review and approval of contractor liability -insurance programs such as group, workers compensation, and third party liability insurance plans. b. Ensure DOE compliance with applicable liability insurance and indemnification requirements. c. Provide a framework through which DOE contractors can develop a cost-effective program for handling liability matters peculiar to their operational responsibility.	a. Amend current language to specify the different forms of covered insurance programs. b. Replace the word "Liability" with insurance to be consistent with FAR 31.205-19, Insurance and Indemnification.	Page VII-1
x	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	3. <u>REQUIREMENTS</u> : A cost-effective liability insurance program will be developed covering for employer's liability, commercial general liability, business auto liability, aircraft public and passenger liability, and vessel liability all federally and state mandated (FAR 28.307-2) coverage, coverage required by the contract, coverage approved by DOE.	Amend current language to specify DOE policy on insurance programs that are mandated by law, required by the contract, and authorized by the Department.	Page VII-1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	4. RESPONSIBILITIES a. Director Office of Contract Management and Administration Senior Procurement Executive	Amend current language to reflect administrative change.	Page VII-1

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	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	(2) Provides advice and assistance to Heads of Departmental and Field Elements on all contractor insurance matters, when requested. Areas of consultation include: (a) policy and plan review, (b) claims administration review for adequacy and cost effectiveness, (c) limit on claim threshold reviews along with claims that exceed established thresholds contractor claims settlement authority and approval process of claims settlement below or above the DOE threshold of \$100K. (d) support of claims services negotiation, and (f) required language in covered contracts.	c. Amend current language to clarify and/or be consistent with the current DOE practice of allowing contractors to settle claims up to \$100K.	Page VII-1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	High	Extreme	No	No	(3) Maintains liaison and consults with other federal agencies and insurance industry organizations concerning insurance matters and with the Office of General Counsel concerning the oversight of contractor Legal Management Plan and its impact on third party liability claims or law suits.	Amend current language to ensure proper coordination with the appropriate offices.	Page VII-2
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(2) Ensure that proposed commercial insurance policies clearly define and include the liability coverage required by law or the terms of the contract; or allowed/authorized for the type of exposure(s) associated with the operation/performance of the DOE facility/contract/ desired, that the cost for proposed coverage is fair and reasonable, and that commercial, self insurance, and DOE TPA options are considered.	Amend current language to ensure that contractor insurance policy(ies) clearly define(s) the required and approved coverage.	Page VII-3(VII-4)
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	Yes	(3) Approve insurance program(s) when it is determined that contractor has conducted a comprehensive feasibility study comparing all available risk funding instruments,(i.e. insurance plan, self-insurance plan, and combination insurance/self-insurance plan) for efficiency and cost effectiveness.	Add new responsibility to ensure that contractor performs a comprehensive feasibility study on the viability of the available risk funding instruments.	Page VII-3(VII-4)

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(4) Ensure the seamless transition of the administration and management of open ended claims ((i.e. insured/self-insured post-retirement/closure benefits including but not limited to workers compensation, retiree health and welfare, and other benefits) from terminating/expiring to follow-on or receiver contracts.	Add new language to ensure continued payments of insured/self-insured post closure benefits during contract transition.	Page VII-3(VII-4)
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	No	c. Cognizant Contracting Officer (1) Establish and negotiate contract provisions clauses affecting contractor insurance programs.	Replace the word "provisions" with "clauses" for clarity. Provisions are associated with solicitations and clauses with contracts.	Page VII-3(VII-4)
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	No	4. Ensure that the required insurance provisions and clauses are contained in all solicitations and contracts, respectively. contain required insurance language and clauses.	Modify current language to properly associate provisions with solicitations and clauses with contracts.	Page VII-3(VII-4)
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	5. Provide copies of Maintain permanent file copies of contractor insurance policies, self-insurance certificates and agreements/contracts, and annual cost and loss data to the Office of Contractor Management and Administration.	Amend current language to reflect administrative change and identify documents for DOE's permanent file records.	Page VII-3(VII-4)
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	No	6. Ensure that contractor's self-insurance proposal justifies the self-insurance rates and charges and that self-insurance cost does not exceed the cost of a competitively purchased insurance.	Add new language/requirement as shown. New requirment is to ensure CO's proper review of contractor's self-insurance program.	Page VII-3(VII-4)
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	No	7. Conduct an annual review of annual insurance cost, self-insurance charges, and loss/claims experience data.	Add new responsibility to ensure the CO's periodic review of the contractor's annual insurance expenditure.	Page VII-3(VII-4)

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	CONTRACTOR REQUIREMENTS DOCUMENT RISK MANAGEMENT AND LIABILITY INSURANCE PROGRAMS Contractor officials shall ensure that the requirements set forth below are applied in the establishment and administration of DOE-funded prime cost reimbursement contracts for management and operation of DOE facilities and other designated long-lived onsite contracts for which the contractor has established separate operating business units.	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Page VII-5
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	1. BASIC REQUIREMENTS a. Maintain commercial insurance or self-insurance programs required by law, regulation, and the requirements of the contract.	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Page VII-5
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	b. Contractors shall not purchase insurance to cover public liability for nuclear incidents without DOE authorization. (See DEAR 950.7010 and 970.2870.)	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Attachment 1, Page VII-5
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	Yes	e. Demonstrate that insurance program costs comply with cost limitations and exclusions at FAR 31.205.19, INSURANCE AND INDEMNIFICATION.	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Attachment 1, Page VII-5
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	Yes	d. Demonstrate that the liability insurance program is being conducted in the government's best interest and at reasonable cost	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Attachment 1, Page VII-5

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	c. Provide current copies of all insurance policies or insurance arrangements, throughout the contract term, to the contracting officer.	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Attacjment 1, Page VII-5
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	f. Ensure that self insurance programs include the following elements. (1) Criteria required to justify self insurance costs. (See FAR 28.308, SELF INSURANCE.) (2) Demonstration of full compliance with applicable state and federal regulations and related professional administration necessary for participation in alternative insurance programs. (3) Safeguards to ensure that third party claims and claim settlements are processed in accordance with approved procedures.	Transfer CRD requirements to Special H Clause of contract. This is consistent with the transfer of the CRD from Ch 4, 5, and 6. to Special H Clause.	Attachment 1, Page VII-5
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	2. PLAN EXPERIENCE REPORTING ((1) The amount paid for each claim. (2) The amount reserved for each claim. (3) The direct expenses related to each claim. (4) A summary for the year showing total number of claims. (5) A total amount for claims paid. (6) A total amount reserved for claims. (7) The total amount of direct expenses	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-5 & VII-6
	Financial - Overpayment of Insurance	Likely	Medium	Significant	No	Yes	b. When applicable, separately identify total policy expenses (e.g., commissions, premiums, and costs for claims servicing) and major claims during the year including those expected to become major claims (e.g., those valued at \$100,000 or greater).	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	e. Additional claim and financial experience data may be requested from the policyholder on a case by case.	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	Yes	3. <u>TERMINATING OPERATIONS</u> Responsible contractor officials shall ensure: a. That the government's interests are protected through proper recording of cancellation credits due to policy terminations and/or experience rating.	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	b. Continuing policy administration requirements are identified and provided by the terminated contractor, another DOE contractor, or a DOE Operations/Field Office.	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	Yes	c. DOE and any self-insured contractor reach agreement on handling and settlement of claims incurred but not reported at time of contract termination; otherwise, the contractor shall retain this liability; and	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	d. Insurance policies are transferred to DOE through an "assignment" of policies after all claims are closed.	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	4. <u>SUCCESSOR CONTRACTOR OR INSURANCE POLICY CANCELLATION</u> Unless otherwise determined to be in the government's best interests, contractor shall ensure: a. That insurance policies of a former DOE contractor are assumed by the successor;	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	b. Continuing policy administration requirements are identified and provided by the terminated contractor, another DOE contractor, or a DOE Operations/Field Office.	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Financial - Overpayment of Insurance	Possible	Medium	Significant	No	No	e. DOE and any self-insured contractor reach agreement on handling and settlement of claims incurred but not reported at time of contract termination; otherwise, the contractor shall retain this liability; and	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Financial - Overpayment of Insurance	Possible	Medium	Significant	No	No	d. incurred but not reported claims relating to the former DOE contractor's operation are reported to and handled by the appropriate insurer;	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	e. successor DOE contractors obtain the written approval by the contracting officer for any change in program direction; and	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	f. insurance coverage replacement is maintained as required and/or approved by the contracting officer.	Transfer CRD contractual requirements to Special H Clause of the contract. This is consistent with the transfer of the CRDs from Chapters 4, 5, & 6 to Special H Clause.	Attachment 1, Page VII-6
	N/A	N/A	N/A	N/A	N/A	N/A	<p>ADDITIONAL GUIDANCE</p> <p>1. Insurance. Contractors selected to manage and operate DOE-owned facilities have traditionally used insurance companies to provide claims and settlement services. These traditional policies are referred to as “service-type policies” or “retrospective policies.” Under such policies, DOE has underwritten losses to the extent the losses were allowable under the terms of the contract. The contractor has some flexibility as to how it sets up its insurance program; however, if it is determined that specific alternative arrangements, as noted below, will be in the government’s best interest, DOE officials may require participation by DOE contractors.</p>	Delete from the Order. This is technical guidance, not policy	Attachment 2, Page VII-7 and VII-8
	N/A	N/A	N/A	N/A	N/A	N/A	<p>a. Service-type (Retrospective) Insurance Policies. These policies represent an un-bundling of insurer services to allow claims adjustment and settlement only. Under this arrangement, an insurer issues policies to the DOE contractor and the insurer’s claims services are then utilized; however, no contingent liabilities are transferred to the insurer. Various types of claims can be handled under these policies, as approved by the appropriate DOE contracting official. The cost of the policy is the cost of claims plus adjustment costs, administrative costs (e.g., taxes), and a fee for service to the insurer. Adjustment costs are to be determined on a basis that avoids in fact and appearance a percentage of cost fee structure. Final cost is not determined until the policy is canceled or expires and all claims incurred have been processed and settled. Certificates of insurance can be issued by the insurer as required to show proof of financial responsibility</p>	Delete from the Order. This is technical guidance, not policy	Attachment 2, Page VII-7 and VII-8
	N/A	N/A	N/A	N/A	N/A	N/A	<p>b. Self insurance by DOE contractors. This program requires contractors to service claims using their own personnel or to acquire a TPA to service claims. Previously, some DOE self-insured contractors have used a TPA contractor to accomplish their claim services. TPAs offer “administrative services,” including claims investigation and claims settlement and possibly other related services.</p>	Delete from the Order. This is technical guidance, not policy	Attachment 2, Page VII-7 and VII-8

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	N/A	N/A	N/A	N/A	N/A	N/A	e. Self insurance Using the Departmental Third Party Administrator (TPA). DOE HQ has a contract for nationwide services with a TPA contractor that is available to DOE contractors on a fixed cost per claim basis. It also offers a variety of loss control/prevention services on a fixed price per hour basis. This contract is the “cost” standard against which all others should be measured. DOE contracts should require DOE contractors to use this service, where it is in the Government’s best interest. Contracting Officers should carefully evaluate contractor justification for use of any alternative insurance program, against the cost and benefits provided by the Departmental TPA.	Delete from the Order. This is technical guidance, not policy	Attachment 2, Page VII-7 and VII-8
	N/A	N/A	N/A	N/A	N/A	N/A	<p>CONTRACTOR LIABILITY SCENARIOS</p> <p>The following are some of they types of liability exposures to which a contractor may be exposed.</p> <p>1. Premises and Operations Liability Exposures. Premises and operations claims can arise out of either the premises owned or utilized or out of operations conducted at or away from these premises</p>	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	2. . Products and Completed Operations Liability Exposures. Products claims can arise out of goods that have been manufactured, sold, handled, or distributed; completed operations claims can arise out of services performed after such services have been completed.	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	3. Employee Benefit Programs Liability Exposures. Employee benefit program claims can arise out of negligent administration of such plans by those authorized to act in some certain administrative capacity for these plans.	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	4. Fiduciary Liability Exposures. Fiduciary claims can arise from violation(s), or alleged violation(s), of the responsibilities, obligations, or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, or amendments thereto	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	5. Employers Liability Exposures. Employer claims can arise when an employee is injured or becomes stricken with an occupational disease due to an employer’s negligence. NOTE: Workers compensation is payable to employees when an employer has met its “duty of care” responsibilities	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	6. Pollution Liability Exposures. Pollution claims can arise due to careless or reckless conduct that damages others through the impairment of air, land, or water resources.	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12

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Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	N/A	2	N/A	N/A	N/A	N/A	7. Medical Malpractice Liability Exposures. Medical malpractice claims can arise when others are damaged by medical professionals who have breached a standard or standards of care	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	8. Auto, Aircraft, Watercraft Liability Exposures. Auto, aircraft, or watercraft claims can arise when, through the use of such vehicles, third persons are damage	Delete from the Order. This is technical guidance, not policy	Attachment 3, Page VII-11 to VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	DEFINITIONS 1. Liability. A condition of being legally bound in law and justice to do something that may be enforced in the courts. Liability insurance can provide extremely broad coverage for this legal liability.	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	2. Commercial insurance policy. A contract in which one party, for consideration, agrees to reimburse another for a loss caused by designated contingencies. The first party is called the insurer or underwriter; the second, the insured or policyholder; the contract is the insurance policy; the legal consideration is the premium; the bodily injury or property insured is the exposure; and the contingency is the happening of the insured event.	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	3. Service-type (retrospective) insurance policy. An insurance policy (contract) in which the cost of the policy (premium) equals the policyholder's claims experience and the insurer's administration cost, plus a fee to the insurer. Under this type of policy, the insurance company does not use its own assets to reimburse the policyholder for a loss caused by covered contingencies. The policy provides only for claim processing and any other designated services.	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	4. Self insurer. An individual, partnership, or corporation that retains responsibility for all or part of its contingent losses.	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	5. Risk. The hazard or condition whose measure relates to the likely frequency or severity of loss.	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	6. Risk management. A discipline with the goal to protect the assets and profits of an organization by reducing the potential for a loss before it occurs. Includes appropriate financing, through insurance and other means, and reduction of potential exposures to catastrophic loss such as acts of God, human error, or court judgment	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12
	N/A	N/A	N/A	N/A	N/A	N/A	7. Administrative Services Contract. An arrangement under which an insurer (underwriter), insurance broker, or other organization provides administrative services only (e.g., claims investigation, claims settlement). The party acquiring the service retains the liability for loss exposure and losses incurred (self insurance).	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?	of Contracting Activity		Reference
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	DOE O 350.1
	N/A	N/A	N/A	N/A	N/A	N/A	8. Third Party Administrator (TPA). The organization that has a contract requiring performance of "administrative services only."	Delete from the Order. This is technical guidance, not policy	Attachment 4, Page VII-11 to Page VII-12

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?		
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation
DOE O 350.1 Chapter III - Reductions in Contractor Employment	Financial - Overpayment of Severance	Possible	Low	Moderate	No	No	<p>3. REQUIREMENTS.</p> <p>a. In compliance with Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 and Secretarial policy, a work force restructuring plan at defense nuclear facilities and other DOE facilities shall be prepared whenever the DOE determines that a change in the work force is necessary. Plans may be developed for multiple years, but the requirement for a plan is triggered when the planned change affects 100 or more employees at a site within a 12-month period, or when the Head of the Field Element determines that a change in the work force will significantly affect the community. In instances where fewer than 100 employees are affected, the objectives of section 3161 shall be applied as feasible.</p> <p>a. Workforce restructuring actions will be managed in accordance with the Department's processes. Accountability will be with the Under Secretaries unless otherwise delegated. Collaboration is expected with the Offices of General Counsel, Management, Congressional and Intergovernmental Affairs, and Public Affairs. It remains critical to ensure complete legal reviews of all workforce restructuring actions.</p>	Existing requirement moved to paragraph 3b(3) and revise language to institutionalize in a formal DOE directive workforce restructuring guidance contained in Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	<p>b. REQUIREMENTS APPLICABLE ONLY TO DOE/NNSA DEFENSE NUCLEAR FACILITIES</p> <p>(1) Upon a determination that a change in the work force at a defense nuclear facility is necessary, the Department is obligated under section 3161 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102-484 (section 3161) to prepare a workforce restructuring plan (herein referred to as the general plan) for submission to Congress.</p>	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Possible	Low	Moderate	No	No	<p>(2) The Department has interpreted section 3161 to trigger the requirement to develop a plan only where the change anticipated will affect at least 100 employees within a 12-month period. Section 3161 (c)(1) requires that changes in the work force at a Department of Energy defense nuclear facility should be made only 120 days or more after the provision of notice of those changes to affected employees and communities.</p>	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	Yes	No	<p>(3) General plans developed in accordance with section 3161 provide a framework for workforce restructuring actions at a particular DOE or NNSA site; these plans are not limited to a specific workforce restructuring action. Departmental policy on matters such as use of incentives and employee waivers has changed over time, and, accordingly, it is crucial to periodically review and update general plans.</p>	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Low	Moderate	No	No	<p>(4) The Department has developed a template for general plans to ensure consistency and accurate application of section 3161 and Departmental policy, as well as to expedite Departmental review. The template for the plan and the accompanying notice of intent to develop a plan for workforce restructuring are contained in Attachment 1.</p>	To institutionalize in a formal DOE directive the templates attached in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011. These templates are currently being used by DOE Field Sites.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?		
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	c. REQUIREMENTS APPLICABLE TO BOTH DEFENSE NUCLEAR FACILITIES AND NON-DEFENSE FACILITIES (1) The appropriate Under Secretary is charged with responsibility for approving workforce restructuring actions by its contractors. This approval authority may be delegated as determined by the Under Secretary. If by the terms of the contractor's contract, it must obtain contracting officer approval to expend funds associated with a workforce restructuring action, the approval thresholds stated above shall in no way be construed to abrogate the contracting officer's authority.	Transfer approval authority of workforce restructuring from the Office of Legacy Management to Under Secretaries. To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(2) Government contractors are prohibited from engaging in discrimination in the workplace and a diversity analysis may assist the contractor in ensuring compliance with Executive Order 11246, implemented through FAR clause 52.222.26. In analyzing contractor requests for reimbursement of costs associated with settlement of employment discrimination litigation, DOE will take into account the results of any Office of General Counsel review of the contractor's diversity analysis.	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	(3) In order to provide substantive and helpful comments and to work with the contractors on approaches to reduce risk, Under Secretaries or designees, in consultation with appropriate staff offices, will review any work force restructuring action within 10 business days after submission of the plan unless the contractors are notified of issues necessitating an extension of time. DOE/NNSA notifications to Congress of the upcoming workforce restructuring actions will occur with 48 hours (two business days) of approval of the contractor plan, or contractors will be provided with an estimate for completing notification, to allow appropriate planning to occur. This notification to Congress must occur prior to any public announcement by DOE/NNSA or the contractor.	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Possible	Low	Moderate	No	No	(4) The DOE or NNSA Office of General Counsel, as appropriate, is available to support the Under Secretaries by reviewing a contractor's Worker Adjustment and Retraining Notice (WARN) Act notice, if such a notice is required, along with employee communications, to assist in avoiding liabilities that would generally not be allowable costs.	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Possible	Low	Moderate	No	Yes	b. (5) Work force restructuring plans shall be prepared in accordance with guidance as set forth herein "Interim Planning Guidance for Contractor Work Force Restructuring," published in the Federal Register Vol. 61, No. 44, dated March 5, 1996 as amended from time to time (Attachment 2).	Revise language to institutionalize in a formal DOE directive workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Likely	Medium	Significant	No	No	e. (6) For defense nuclear facilities, general site-specific work-force restructuring plans and implementation reports shall be submitted to the Secretary, who will approve/disapprove them for delivery to Congress. For other DOE facilities, delivery of a workforce restructuring plan to Congress is at the discretion of the Secretary.	Keep current language with minor modification to clarify requirement.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?		
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	d. Annual implementation reports shall be submitted by Field Elements to the Office of Worker and Community Transition that include the following information: (1) Data on the retained worker force and its ability to meet mission requirements. (2) Data on workers whose positions were eliminated and who were reassigned to other work at the site and a description of training provided to achieve such placements, including training costs. (3) Data comparing the number of workers separated voluntarily and involuntarily and costs associated with each category of benefits provided to them, including estimates of such costs that were included in the work force restructuring plan. (4) The contractor's statement as to whether adverse EEO impact resulted from involuntary separations. If affirmative, its extent, business necessity, and a description of the efforts taken to prevent it. (5) An evaluation of plan implementation. (6) Detailed guidance on submitting this information will be provided by the Office of Worker Community Transition.	Eliminate current language as this report is no longer required by Congress.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Unlikely	Low	Minor	No	No	c. The Department must have ready access to retired scientists and engineers who may be needed on a part time basis to support the Department's nuclear weapons program. The Department will maintain a list of individually identified retirees, including an affirmation of their agreement to be members of the retiree corps and necessary identification information to ensure ready access. The purposes for such access include archiving technical information, data and recollections not available from the active work force in areas related to weapons disassembly and nuclear weapons testing; assisting stockpile stewardship activities as required; and training replacement scientists and engineers. Access to members of the corps will not be restricted by other policies of DOE or within the control of DOE unless explicitly agreed to by the Secretary of Energy, and members of the retiree corps will maintain their security clearances for as long as they are in the retiree corps program. Further, inclusion in the corps will not amend, abrogate, or affect any retirement annuity with regard to any DOE imposed restrictions on such annuity.	Eliminate current language as this list is no longer required.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	4. RESPONSIBILITIES. a. The Secretary. (1) Approves/disapproves work force restructuring plans that are submitted to Congress. (2) Approves/disapproves notifications of reductions in force of more than 100 employees at a single site. (3) Submits work force restructuring plans and updates (implementation reports) to Congress.	Keep current language with modifications to reflect delegation to Under Secretaries as contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?		
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation
	Financial - Overpayment of Severance	Possible	Medium	Significant	No	No	<p>b. Under Secretaries or designees.</p> <p>(1) Accountable for workforce restructuring actions.</p> <p>(2) Collaborate with the Offices of General Counsel, Management, Congressional and Intergovernmental Affairs, and Public Affairs.</p> <p>(3) Approve workforce restructuring actions by contractors of 50 or more employees through involuntary separation or 100 or more employees through a voluntary/involuntary separation action at a single site. This approval authority may be delegated as determined by the Under Secretary.</p> <p>(4) Review any workforce restructuring action within 10 business days after submission of the plan by the contractor, in consultation with applicable staff offices, as appropriate, unless the contractors are notified of issues necessitating an extension of time.</p> <p>(5) Recommend to the Secretary for approval Workforce Restructuring Plans that are submitted to Congress.</p> <p>(6) Receives and reviews any request by the Contractor to pay 60 days pay in lieu of providing actual notice under the Worker Adjustment and Retraining Notification Act (WARN).</p>	To include the "Under Secretaries or designees" roles and responsibilities designated in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Possible	Medium	Significant	No	No	<p>c. Office of the General Counsel.</p> <p>(1) Reviews and makes recommendations as requested by the Head of Contracting Activities (HCA) on contractor workforce restructuring plans submitted to Under Secretaries or designees and/or Congress.</p> <p>(2) Reviews and makes recommendations on contractor WARN Act notices.</p> <p>(3) Reviews and approves diversity analysis only if submitted by the contractor for approval.</p>	To include the "Office of the General Counsel" roles and responsibilities designated in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Possible	Low	Moderate	No	No	<p>d. Director, Office of Management (MA-1).</p> <p>(1) Reviews and makes recommendations as requested by the HCA on contractor workforce restructuring plans submitted to Under Secretaries or designees and/or Congress.</p>	To include the "Office of Management" roles and responsibilities designated in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.

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	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Possible	Low	Moderate	No	No	(2) Requests and collects data on actual and planned contractor workforce restructuring actions through an annual data call.	To reflect the transfer of policy oversight from the Office of Legacy Management to the Office of Management.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	b. Director, Office of Worker and Community Transition. (1) Provides direction and guidance in the development and implementation of work force restructuring plans and the implementation of economic development plans when a community is significantly affected by changes in the work force.	Transfer current language to section 4e(2) since the Office of Legacy Management is no longer responsible for oversight of contractor workforce restructuring actions.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	(2) Recommend to the Secretary for approval Work Force Restructuring Plans that are submitted to Congress.	Transfer current language to section 4b(5) since the Office of Legacy Management is no longer responsible for oversight of contractor workforce restructuring actions.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	(3) Approves/disapproves work force restructuring actions which do not require Secretarial approval, including programs to minimize lay-offs. Coordinates review with the affected program office and with General Counsel, Field Management, and Human Resources and Administration.	Eliminate current language since this responsibility is covered under section 4b.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	(4) Coordinates notifications to Congress with Heads of Field Elements and with the Assistant Secretary for Congressional and Intergovernmental Affairs.	Eliminate current language since this responsibility is covered under section 4b.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	No	No	(5) Performs other tasks that are assigned to the Office of Worker and Community Transition (WT-1) in Attachment 2.	Eliminate current language since the Office of Legacy Management is no longer responsible for oversight of contractor workforce restructuring actions.

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	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Unlikely	Low	Minor	No	No	e.e. Heads of Field Elements. (1) Oversee the management of workforce changes consistent with direction from the Office of Worker and Community Transition Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 and Department of Energy Interim Planning Guidance for Contractor Work Force Restructuring, Federal Register Vol. 61, No. 44, pp. 8593-8602 (March 5, 1996) guidance as set forth herein, as may be amended DOE O 350.1 III-5 (and III-6) 9-30-96 from time to time.	Revise language to eliminate outdated policy.
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(2) Provides direction and guidance in the development and implementation of work force restructuring plans and the implementation of economic development plans when a community is significantly affected by changes in the work force.	Transferred current language from section 4b(1) since the Office of Legacy Management is no longer responsible for oversight of contractor workforce restructuring actions.
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(2) (3) Prepare site-specific work force restructuring plans (and update them annually by means of implementation reports) in accordance with guidance contained in Department of Energy Interim Planning Guidance for Contractor Work Force Restructuring, Federal Register Vol. 61, No. 44, pp. 8593-8602 (March 5, 1996) as set forth herein, as may be amended from time to time.	Revise language to eliminate outdated policy.
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(3) (4) Obtain approval of separation incentives beyond those expressly authorized by contract from WT-1 Under Secretaries or designees early in the planning process and submit a final work force restructuring plan to WT-1 as early as practicable. Field offices should check to determine if Congress has prohibited DOE/NNSA from reimbursing contractors for enhanced benefits, i.e., benefits in excess of those provided for under the parties' contract, including those under any benefit plans approved by the Department. Early retirement incentives that are funded through contractor pension plans will continue to be unallowable in order to avoid increasing the Department's long term pension liabilities.	Keep current language with modifications to reflect new guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Possible	Medium	Significant	No	No	(5) Obtain approval from Under Secretaries or designees of requests by the contractor to pay 60 days pay-in-lieu of providing actual notice under the WARN Act.	To institutionalize in a formal DOE directive additional workforce restructuring guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern due to lack of policy oversight.	Possible	Low	Moderate	No	No	(4) (6) Establish a baseline employment data base for use in preparing work force analyses and work force restructuring plans. provide quarterly reports on the data base to the Office of Worker and Community Transition.	Keep current language with minor modifications to delete the requirement of quarterly reports, since the referenced submittal was used to support the annual reporting requirement to Congress which has been eliminated.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?		
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	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Likely	Medium	Significant	No	No	(5) (7) Provide the following notifications upon WT-1 Under Secretaries or designees approval. (a) General Notification to Employees prior to any public announcement and, where possible, 120 days prior to the involuntary separation of any employee. (b) Notification to the Public. Coordinate with the Office of Worker and Community Transition Under Secretaries or designees any general announcement describing work force changes at the site and the estimated number of affected positions. (c) Notification to Individual Employees. Ensure that contractors provide 60 day notification if the Work Force Adjustment and Retraining Notification (WARN) Act applies. The WARN ACT requires 60-days notice of workforce restructuring actions that constitute mass layoffs and plant closings, and provides for financial and other penalties for noncompliance. (d) If it the WARN Act does not apply, contractors shall provide individual employees as much notice of involuntary separation as is practicable, but not less than 2 weeks or 2 weeks pay in lieu of notice.	Keep current language with modifications to reflect new guidance contained in Secretarial Policy memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Possible	Medium	Significant	No	No	(7) (9) Develop mechanisms to ensure that hiring preferences are being honored by all prime contractors and designated subcontractors. Requirements shall address employee responsibilities. as well as use of the DOE automated Job Opportunity Bulletin Board System (JOBBS).	Keep current language with modifications to reflect that the JOBBS database program no longer exist.
	Customer, Stakeholder, and Public Trust- Loss of trust and political concern due to lack of policy oversight.	Rare	Low	Minor	Yes	No	(8) Maintain a list of individually identified retired scientists and engineers who will comprise a retiree corps to assure ready access to those whose skills may be needed on a part time basis to support the Department's Nuclear Weapons Program.	Eliminate current language as the list of retired scientists and engineers no longer exist.
Chapter III - Contractor Requirements Document	Financial - Overpayment of Severance	Possible	Low	Moderate	No	No	1. Contractors will regularly analyze work force requirements consistent with mission and will develop appropriate work force transition strategies coinciding with restructuring objectives consistent with DOE Interim Planning Guidance for Contractor Work Force Restructuring, Federal Register, Vol. 61, No. 44, pp. 85938602 (March 5, 1996) as may be amended from time to time.	Remove the Contractor Requirements Document (CRD) and incorporate contractor requirements into the contract via a contract clause. Include current language with modifications in a contract clause to reflect the new workforce restructuring guidance contained in Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?		
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation
	Financial - Overpayment of Severance	Possible	Medium	Significant	No	No	2. Where a change in the nature or structure of a contractor's work force may affect 100 or more employees at a site within a 12-month period, the contractor shall provide such information as directed by the contracting officer or his designee to enable compliance with section 3161 of the National Defense Authorization Act for Fiscal Year 1993; DOE Interim Planning Guidance for Contractor Work Force Restructuring Federal Register vol. 61, no. 44, pp 8593-8602 (March 5, 1996), as may be amended from time to time; and Chapter III of DOE Order 350.1.	Remove the Contractor Requirements Document (CRD) and incorporate contractor requirements into the contract via a contract clause. Include current language with modifications in a contract clause to reflect the new workforce restructuring guidance contained in Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Possible	Medium	Significant	No	No	3. Provide notifications to employees, the public, and stakeholders in accordance with a schedule approved by the contracting officer or his designee.	Remove the Contractor Requirements Document (CRD) and incorporate contractor requirements into the contract via a contract clause. Include current language with modifications in a contract clause to reflect the new workforce restructuring guidance contained in Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Possible	Low	Moderate	No	No	4. Extend preferences, to the extent practicable, in filling vacancies in their work force to employees terminated from a defense nuclear facility. Guidance for this program is contained in section V of Department of Energy Interim Planning Guidance for Contractor Work Force Restructuring, Federal Register Vol. 61, No. 44, pp. 8593-8602 (March 5, 1996), as may be amended from time to time.	Eliminate current language as it does not reflect the new guidance contained in Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.
	Financial - Overpayment of Severance	Possible	Low	Moderate	No	No	5. Notify the contracting officer or his designee of any work force reduction that involves the involuntary separation of 10 or more employees at least 10 work days prior to such separations. The notification shall include affected job classifications, numbers of employees affected, and actions taken to assist the employees find other employment or otherwise lessen the impact of the involuntary separation.	Eliminate current language as it does not reflect the new guidance contained in Secretary Steven Chu's memorandum entitled "Authorize Changes to Workforce Restructuring Policy," dated May 5, 2011.