U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 350.1 Chg 5

Chg 5: 9-30-2014

SUBJECT: PAGE CHANGE TO DOE O 350.1, *CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS*

1. EXPLANATION OF CHANGES. The Order is being revised to reflect the cancellation of Chapters 1-3 due to the incorporation of these chapters into DOE Order 350.3; reflect organizational changes; delete reference to the DOE Retrospective Rating Insurance Plan, which is no longer available; remove the CRD from Chapter VII.

2. LOCATIONS OF CHANGES:

Page	Paragraph
VII-1	Chapter title
VII-1	1.a; 2; 3; 4.a; 4.a(1); 4.a(2)(d)
VII-2	4.a(3); 4.b(2); 4.c(1); 4.c(4)
VII-3	6
Chapter VII CRD	Deleted
Additional Guidance	Deleted
Contractor Liability Scenarios	Deleted
Definitions	Deleted

BY ORDER OF THE SECRETARY OF ENERGY:

DANIEL PONEMAN
Deputy Secretary

U.S. Department of Energy
Washington, D.C.

ORDER

DOE O 350.1

Approved: 09-30-96
Chg 1: 05-08-98
Chg 2: 11-22-09
Chg 3: 02-23-10
Chg. 4: 04-29-13
Chg 5: 09-30-14

SUBJECT: CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS

1. OBJECTIVES.

   a. To establish Department of Energy (DOE) responsibilities, requirements, and cost allowability criteria for the management and oversight of contractor Human Resource Management (HR) programs.

   b. To ensure that DOE contractors manage their HR programs to support the DOE mission, promote work force excellence, champion work force diversity, achieve effective cost management performance, and comply with applicable laws and regulations.

   c. To implement consistent requirements that allow contractors flexibility in determining how to meet the requirements.

   d. To ensure that all elements of cash and non-cash compensation are considered in the design and implementation of an appropriate total compensation philosophy, but are not used as a means to deflect needed cost reductions in either or both.

2. CANCELLATIONS. In addition to the Orders listed in the chapters of this Order, the Orders listed below are canceled. Cancellation of an Order does not, by itself, modify or otherwise affect any contractual obligation to comply with such an Order. Canceled Orders incorporated by reference in a contract shall remain in effect until the contract is modified to delete the reference to the requirements in the canceled Orders. Canceled Contractor Requirement Documents (CRDs) shall remain in effect for Chapter IV. Compensation, Chapter V. Benefits, and Chapter VI. DOE Contractor Pension Plans, until the contract is modified to incorporate language covered by the canceled CRDs.

   a. DOE 3220.1A, MANAGEMENT OF CONTRACTOR PERSONNEL POLICIES AND PROGRAMS, of 5-14-92.

   b. DOE 3220.4A, CONTRACTOR PERSONNEL AND INDUSTRIAL RELATIONS REPORTS, of 1-7-93.

   c. DOE 3220.6A, FEDERAL LABOR STANDARDS, of 5-14-92.

   d. DOE 3309.1A, REDUCTIONS IN CONTRACTOR EMPLOYMENT, of 11-30-92.

Vertical line denotes change.

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All Departmental Elements

INITIATED BY:
Office of Contractor Human Resource Management

e. DOE 3830.1, POLICIES AND PROCEDURES FOR PENSION PLANS UNDER OPERATING AND ONSITE SERVICE CONTRACTS, of 8-23-82.

f. DOE 3890.1A, CONTRACTOR INSURANCE AND OTHER HEALTH BENEFIT PROGRAMS, of 6-12-92.

g. DOE N 3131.1, ACCESS TO SKILLS, KNOWLEDGE AND ABILITIES OF RETIRED SCIENTISTS AND ENGINEERS FOR THE NUCLEAR WEAPONS PROGRAM, of 4-28-95.

3. APPLICABILITY.

a. DOE Elements. Except for the exclusions in paragraph 3c, this Order applies to all DOE Elements as defined and identified at https://powerpedia.energy.gov/wiki/Department_Elements#Department_Elements.

The Administrator of the National Nuclear Security Administration (NNSA) will assure that NNSA employees comply with their respective responsibilities under this directive. Nothing in this Order will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 U.S.C. sections 2406 and 2511 and to ensure consistency through the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this directive for activities under the Director's cognizance, as deemed appropriate.

b. Except for the exclusions in paragraph 3c or as specified in the Applicability section of this Order's individual chapters, Attachment 1, the Contractor Requirements Document (CRD) located at the back of each of this Order's individual chapters, sets forth requirements that are applicable to the universe of prime cost reimbursement contracts for the management and operation of DOE-owned or DOE-leased facilities and other contracts and sub-contracts as identified in the specific chapters of this Order. Applicability to other designated long-lived onsite contracts is optional at the discretion of Departmental and Field Elements. Contractor compliance with the CRD will be required to the extent set forth in a contract. Contractors shall be directed to continue to comply with the requirements of orders canceled by this Order until their contracts are modified to delete the reference to the requirements of the canceled orders. Contractors shall be directed to continue to comply with the requirements of the CRDs canceled by this Order until their contracts are modified to delete the reference to the canceled CRDs.

c. Exclusions.

(1) Specific exclusions, if applicable, are identified in the Applicability section of each of this Order's individual chapters.

(2) Activities that are regulated through a license by the Nuclear Regulatory Commission (NRC) or a State under an Agreement with the NRC, including activities certified by the NRC under section 1701 of the Atomic Energy Act; [same as section 830.2(a)].

(3) Activities conducted under the authority of the Director, Naval Nuclear Propulsion Program, as described in Public Law 98-525; [same as section 830.2(b)].

4. REQUIREMENTS. Requirements are set forth in Chapters I through IX of this Order.

5. RESPONSIBILITIES. Assignments of responsibility are set forth in Chapters I through IX of this Order.

6. REFERENCES. Applicable references are listed in Chapters I through IX of this Order.

7. CONTACT. See Chapters I through IX for the appropriate contacts.

BY ORDER OF THE SECRETARY OF ENERGY:

ARCHER L. DURHAM
Assistant Secretary for
Human Resources and
Administration

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CHAPTER I.
LABOR RELATIONS

1. OBJECTIVES.

   a. To ensure that Department of Energy management and operating contractors pursue collective bargaining practices that promote efficiency and economy in contract operations, judicious expenditure of public funds, equitable resolution of disputes, and effective collective bargaining relationships.

   b. To achieve full consultation with management and operating contractors prior to contract negotiations and during the term of a contract on matters that may have a significant impact on work rules, make-or-buy decisions, or past customs and practices.

2. APPLICABILITY. This chapter applies to prime contractors that perform work under prime contracts at DOE-owned installations to the extent set forth in the prime contract. Contractor requirements are set forth in Attachment 1 to this chapter.

3. REQUIREMENTS.

   a. DOE retains absolute authority on all questions of security, security rules, and their administration. However, to the fullest extent feasible, DOE shall consult with representatives of management and labor in formulating security rules and regulations that affect the collective bargaining process.

   b. DOE shall not take a public position concerning the merits of a labor dispute between a contractor and its employees or organizations representing those employees.

4. RESPONSIBILITIES.

   a. Director, Office of Worker and Community Transition.

      (1) Establishes DOE labor relations policy in consultation with field organizations.

      (2) Represents DOE Headquarters on all matters involving contractor labor relations issues. This includes:

         (a) informing DOE senior management of significant labor relations developments,

         (b) acting as DOE liaison to other government agencies and to international unions and their representatives,

         (c) serving as a clearing house for labor relations information,

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(d) coordinating union representation at meetings and conferences initiated by DOE Headquarters elements; and

(e) approving all DOE policy affecting contractor labor relations.

(3) Works with DOE program offices that originate or change qualification standards, testing requirements, or other programs that may affect conditions of employment for contractor employees to ensure that they are developed and/or implemented consistent with collective bargaining requirements.

b. Heads of Contracting Activities.

(1) Review collective bargaining issues with contractors and reach agreement on economic parameters prior to commencement of negotiations.

(2) Consult regularly with contractors during the term of collective bargaining agreements to stay abreast of matters of interest and concern to DOE.

(3) Serve as DOE liaison to regional governmental agencies and offices and to regional union officials.

(4) Notify the Office of Worker and Community Transition of National Labor Relations Board charges and any significant labor relations issues.

(5) Provide timely information and advice to DOE Headquarters and others concerning local contractor labor issues and arbitration decisions.

5. REFERENCES.

a. Federal Acquisition Regulation (FAR), Subpart 22.1, BASIC LABOR POLICIES, which provides guidance to contracting officers on labor relations matters.

b. Department of Energy Acquisition Regulation (DEAR), Subpart 970.22, APPLICATION OF LABOR POLICIES, which provides DOE guidance to contracting officers on labor relations matters.

c. DEAR 970.3102-2(e), which addresses allowability of compensation costs.

6. CONTACT. Office of Worker and Community Transition, at (202) 586-7550.

Canceled by DOE O 350.3

CONTRACTOR REQUIREMENTS DOCUMENT
LABOR RELATIONS

The following requirements apply to prime contractors that perform work under cost reimbursement contracts at DOE-owned installations to the extent set forth in the prime contract.

1. Develop and implement labor relations policies that will promote orderly collective bargaining relationships, equitable resolution of disputes, efficiency and economy in operations, and the judicious expenditure of public funds.

   a. Consult with the contracting officer prior to and during the course of negotiations with labor unions, and during the term of resultant contracts, on economic issues and other matters that have a potentially significant impact on work rules, make-or-buy decisions, or other matters that may cause a significant deviation from past customs or practices.

   b. Provide the contracting officer with a settlement summary within 30 to 60 days after formal ratification of the agreement, using the "Report of Settlement" form.

   c. Immediately advise the DOE Field Element of the following:

      (1) Possible strike situations or other job actions affecting the continuity of operations; in the event of work stoppage, the contractor is responsible for completing Bureau of Labor Statistics (BLS) Form 817 and forwarding two copies to the DOE Field Element.

      (2) Formal action by the National Labor Relations Board or the National Mediation Board (copies of the Board correspondence shall be provided to the Field Element).

2. Recourse to procedures under the Labor-Management Relations Act of 1947, as amended, or any other federal or state law.

3. Any grievance scheduled for arbitration under a collective bargaining agreement that has the potential for significant economic or other impact.

4. Other significant issues that may involve review by other federal or state agencies.

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CHAPTER II.
LABOR STANDARDS

1. OBJECTIVES.

   a. To ensure that applicable labor standards are included in all Department of Energy contracts and subcontracts.

   b. To cooperate with the Department of Labor, as appropriate, to:

      (1) obtain information,

      (2) provide complete and timely reports, and

      (3) exercise oversight responsibility to ensure contractor compliance with applicable laws.

2. APPLICABILITY. This Chapter is applicable to all DOE Elements responsible for the management of contracts for prime contractors of the Department's government owned facilities.

3. REQUIREMENTS. Proposed acquisition and designated contractor work packages shall be reviewed to determine the applicability of the Davis-Bacon Act and/or the Service Contract Act; work shall be accomplished in accordance with such determinations.

4. RESPONSIBILITIES.

   a. Director, Office of Worker and Community Transition.

      (1) Coordinates Departmental comments on proposed revisions to Department of Labor regulations and provides interpretations of final revisions to Headquarters and field elements.

      (2) Prepares and submits the Davis-Bacon Semi-Annual Enforcement Report to the Department of Labor by April 30 and October 30.

      (3) By April 10 of each year, submits to the Administrator, Wage and Hour Division, Department of Labor, a consolidated annual forecast of construction programs, which is required by Department of Labor All Agency Memorandum No. 144.

      (4) Coordinates responses to Congress and the Department of Labor on labor standards complaints on acquisitions administered by Headquarters.

   b. Heads of Contracting Activities.

      (1) Establish Labor Standards Committees to advise contracting officers on the applicability of the various labor standards statutes to contracts and proposed work packages.

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(2) Review the SF-98 and SF-98a, Notice of Intention to Make a Service Contract and Response Notice, to ensure that the contemplated work is appropriately covered by the Service Contract Act and that forms are prepared properly. Forwards such forms to the Department of Labor.

(3) Advise Director of Worker and Community Transition of complaints and significant labor standards violations generated by contractor employees and others.

(4) Ensure that all contracts contain the appropriate labor standards provisions.

(5) Ensure that bidders and contractors are provided with applicable labor standards information and that, where necessary, conferences and contract orientation meetings are held for solicitations or contracts.

(6) Assist the Department of Labor in preparing for a hearing on and/or investigating any alleged violations or disputes on alleged violations.

(7) For Service Contract Act covered contracts in excess of $10,000.00, furnish Standard Form 279, Federal Procurement Data System Individual Contract Action Report, or its equivalent, to the Federal Procurement Data System (see 29 CFR 4.8).

(8) Request Davis-Bacon Act project wage determinations from the Department of Labor on the SF-308, Request for Determination and Response to Request for instances in which general area decisions are not available or are not appropriate to the DOE site or job. Accordingly, submit wage data to the Department of Labor.

(9) Ensure payroll and job-site audits are conducted as may be necessary to determine compliance with the Davis-Bacon Act..

(10) Investigate complaints under the Davis-Bacon Act to determine compliance and proceed as follows:

(a) If no violation is discovered, advise the complainant of the reasons for the conclusion.

(b) If a violation is discovered:

1 determine the amount of back wages, fringe benefits, and overtime pay due each employee, and request the contractor to make restitution;

2 determine the amount of liquidated damages due, if any, and request the contractor to make restitution;

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3 withhold sufficient funds to compensate employees and to cover any liquidated damages that may be due when the contractor does not agree with the findings and refuses to make restitution;

4 furnish an enforcement report to the Administrator, Wage and Hour Division, Department of Labor within 60 days after completion of an investigation where the Davis-Bacon Act underpayments by a contractor totals $1,000.00 or more; there is reason to believe the violations are willful; the contractor does not agree with the findings and refuses to make restitution; or the Department of Labor requested the investigation;

5 ensure that funds withheld to compensate employees for back wages are forwarded to the Comptroller General for disbursement if restitution has not been made.

(11) Prepare and submit the Davis-Bacon Semi-Annual Enforcement Report to the Director, Office of Worker and Community Transition, by April 21 and October 21 of each year.

5. REFERENCES.

a. Federal Acquisition Regulations (FAR), Subpart 22.4, LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION, which explains the applicability of the Davis-Bacon Act.

b. Federal Acquisition Regulations (FAR), Subpart 22.10, SERVICE CONTRACT ACT OF 1965, AS AMENDED, which explains the applicability of the Service Contract Act.

c. Department of Energy Acquisition Regulation 970.2273, ADMINISTRATIVE CONTROLS AND CRITERIA FOR APPLICATION OF THE DAVIS-BACON ACT IN OPERATIONAL OR MAINTENANCE ACTIVITIES.

6. CONTACT. Office of Worker and Community Transition, at (202) 586-7550.

Canceled by DOE O 350.3

CONTRACTOR REQUIREMENTS DOCUMENT
LABOR STANDARDS

The following requirements apply to contractors who perform work subject to the Davis-Bacon Act and the Service Contract Act.

1. Request labor standards coverage determinations from the contracting officer by submitting proposed work authorizations for contracts in excess of $2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works that involve the employment of laborers and mechanics. (See FAR 22.401 for definition of terms.)

2. Accomplish work tasks in accordance with the labor standards determination.

3. Ensure that subcontractors comply with the Davis-Bacon Act and conduct payroll and job-site audits as requested or authorized by the Head of Contracting Activity.

4. Maintain accurate and complete Davis-Bacon Act payrolls for 3 years from completion of contract when performing as the construction contractor.

5. Post in a prominent job-site location the following Department of Labor Publications.

   a. WH-1321, Notice to Employees Working on Federal or Federally Financed Construction Projects.

   b. WH-1313, Notice to Employees Working on Government Contracts.

6. Prepare Standard Form 98, "Notice of Intention to Make a Service Contract and Response to Notice" for all subcontracts subject to the Service Contract Act and forward to the contracting officer.

7. Provide information requested by the Head of Contracting Activity for its responses to inquiries received from Congress and Headquarters.

8. Provide information requested by the Head of Contracting Activity for its reporting requirements.

Canceled by DOE O 350.3

CHAPTER III.
REDUCTIONS IN CONTRACTOR EMPLOYMENT

1. OBJECTIVES.

   a. To perform work force planning that ensures continued availability of critical knowledge, skills, and abilities required for the Department's mission; and supports a schedule of work force restructuring actions that minimizes the impacts on programmatic activities.

   b. To provide reasonable notice to employees, their representatives, public officials, and other stakeholders of necessary reductions in contractor employment, and to consult with them in planning for work force restructuring.

   c. To the extent practicable, to minimize reductions at DOE defense nuclear facilities and other facilities through retraining efforts. If retraining is not feasible, consider early retirement, attrition, and other options that minimize layoffs.

   d. To provide assistance to communities in reducing the impact of employment reductions.

2. APPLICABILITY. This chapter applies to prime contractors and their integrated subcontractors that perform work at DOE-owned installations to the extent set forth in the prime contract.

3. REQUIREMENTS.

   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.

   b. Work force restructuring plans shall be prepared in accordance with “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).

   c. For defense nuclear facilities, 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 work force restructuring plan to Congress is at the discretion of the Secretary.

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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.

e. 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.

4. RESPONSIBILITIES.

a. The Secretary.

(1) Approves/disapproves work force restructuring plans that are submitted to Congress.

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(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.

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.

(2) Recommends to the Secretary for approval Work Force Restructuring Plans that are submitted to Congress.

(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.

(4) Coordinates notifications to Congress with Heads of Field Elements and with the Assistant Secretary for Congressional and Intergovernmental Affairs.

(5) Performs other tasks that are assigned to the Office of Worker and Community Transition (WT-1) in Attachment 2.

c. Heads of Field Elements.

(1) Oversee the management of work force 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), as may be amended DOE O 350.1 III-5 (and III-6) 9-30-96 from time to time.

(2) 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 may be amended from time to time.

(3) Obtain approval of separation incentives beyond those expressly authorized by contract from WT-1 early in the planning process and

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submit a final work force restructuring plan to WT-1 as early as practicable.

(4) 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.

(5) Provide the following notifications upon WT-1 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 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 60day notification if the Work Force Adjustment and Retraining Notification (WARN) Act applies. If it 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.

(6) For work force reductions requiring only contracting officer or his designee approval, ensure the following are notified prior to the involuntary separation other than for cause of 10 or more employees.

(a) Affected national and local unions.

(b) State and local governments.

(c) Congressional delegation.

(7) 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).

(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.

Canceled by DOE O 350.3

5. REFERENCES.

a. Worker Adjustment and Retraining Notification Act, Public Law 100-379 (August 4, 1988).

b. Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484).

c. Department of Energy Interim Planning Guidance for Contractor Work Force Restructuring, Federal Register Vol.61, No.44, pp. 8593 - 8602 (March 5, 1996).

6. CONTACT. Office of Worker and Community Transition, at (202) 586-7550.

Canceled by DOE O 350.3

CONTRACTOR REQUIREMENTS DOCUMENT
REDUCTIONS IN CONTRACTOR EMPLOYMENT

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.

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.

3. Provide notifications to employees, the public, and stakeholders in accordance with a schedule approved by the contracting officer or his designee.

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.

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.

Canceled by DOE O 350.3

CHAPTER IV.
COMPENSATION

1. OBJECTIVE. To ensure that contractors develop and administer compensation programs that will attract and retain competent and productive employees and that facilitate achievement of objectives and business strategies in support of DOE missions in a cost effective manner.

2. APPLICABILITY. This chapter is applicable to all DOE Elements responsible for management of cost reimbursable contracts that include provisions for DOE reimbursement of contractor human resources costs.

3. REQUIREMENTS. Reasonableness and allowability of compensation under contracts to manage and operate DOE facilities shall be determined in accordance with the cost principles at DEAR 970.3102-05-6 and shall be determined for all other contracts in accordance with the guidelines at FAR 31.205-6.

4. RESPONSIBILITIES.

   a. Senior Procurement Executive.

      Establishes Department Performance Objectives for contractor employee compensation programs, and in consultation with the cognizant program officer, approves the initial compensation and any changes in compensation for each contractor's top official.

   b. Heads of Contracting Activities.

      (1) Approve the initial compensation program design, including application of parent organization policies and practices, and appraise its implementation at least once during the term of the contract; that appraisal shall be within 2 years when there has been a successor contractor.

      (2) Approve the following prior to DOE reimbursement under the contract.

         (a) Compensation increase plan (CIP).

         (b) Individual compensation (including stipends, if any) of key personnel who report directly to the contractor's top official (e.g., General Manager/Director) and that are not included in the CIP. For those key personnel included in the CIP, approval upon initial contract award and when replaced during the life of the contract. Ensure the contractor submits the Application for Contractor Compensation Approval Form (see paragraph 5d) for all actions requiring approval.

         (c) Incentive plan if such a plan is established.

(3) Ensure there are procedures in place to verify the accuracy of the Annual Contractor Salary-Wage Increase Expenditure Report (see paragraph 5c) and the report is forwarded to the Senior Procurement Executive for applicable contractors.

(4) Ensure that periodic appraisals of contractor performance with respect to total compensation system are conducted. Such appraisals will be conducted through either DOE validation of the Contractor's performance self-assessment of its total compensation system or third party expert review.

(5) Develop performance measures and related incentives for performance based contracts to achieve Department objectives in management of contractor employee compensation and use of overtime.

(6) Ensure the personnel responsible for accomplishing 4b(1) through (5) above, have the skills, knowledge and abilities to meet these responsibilities or receive sufficient training to do so.

5. REFERENCES.

a. Federal Acquisition Regulations 31.205-6, COMPENSATION FOR PERSONAL SERVICES.

b. Department of Energy Acquisition Regulations 970.3102-05-6, COMPENSATION FOR PERSONAL SERVICES.

c. Contractor Salary-Wage Increase Expenditure Report (located at http://energy.gov/sites/prod/files/cioprod/documents/350-1.pdf)

d. Application For Contractor Compensation Approval (located at http://energy.gov/sites/prod/files/cioprod/documents/3220-5.pdf)

6. CONTACT. Contractor Human Resources Policy Division, at (202) 287-1330.

CHAPTER V. BENEFITS

1. OBJECTIVE. To ensure that contractors that perform work under cost reimbursement contracts develop employee benefit programs that will attract and retain competent and productive employees and that facilitate the achievement of objectives and business strategies in support of DOE missions in a cost effective manner.

2. APPLICABILITY. This chapter is applicable to all DOE Elements responsible for management of cost reimbursable contracts that include provisions for DOE reimbursement of contractor human resources costs.

3. REQUIREMENTS. Reasonableness and allowability of compensation, including welfare benefits, shall be determined for contracts to manage and operate DOE facilities in accordance with the cost principles at DEAR 970.3102-05-6 and shall be determined for all other contracts in accordance with the guidelines at FAR 31.205-6.

4. RESPONSIBILITIES.

   a. Senior Procurement Executive.

      (1) Establishes Departmental performance objectives for contractor welfare benefit programs management and assists field staffs to define performance measures and expectations that will be used to evaluate accomplishment of performance objectives.

      (2) Approves contractor benefit plans and proposed changes that are an exception to DOE policy.

      (3) Defines reporting requirements regarding benefits cost and workers' compensation loss information including format, definition of requirements, and schedule of reporting.

      (4) Provides consultation on benefit programs to Department Managers, Heads of Contracting Activities, and contractors.

      (5) Provides the results of any applicable benefits studies to Department Managers, Heads of Contracting Activities, and contractors.

      (6) Provides guidance to Heads of Contracting Activity on the conduct and use of the methods for evaluating contractor welfare benefit programs using either the tables published by the U.S. Department of Labor’s Bureau of Labor Statistics, the Value Study method or other nationally recognized survey.

b. Heads of Contracting Activities.

(1) Develop performance measures, expectations, and related incentives for performance-based contracts to achieve Department objectives and desired improvements in contractor management of employee benefit programs.

(2) Evaluate contractor benefit programs on a periodic basis to assess program costs and assure costs are reasonable and allowable.

(3) Approve the adoption by contractors of corporate benefit programs in their entirety, which incorporate policy, procedures, cost sharing and other arrangements of the parent organization.

(4) Approve contractor benefit plans and proposed changes that are either new or first time on a site, set a precedent for the DOE contractor system, or involve flexible benefit programs.

(5) Obtain approval of the Senior Procurement Executive for contractor benefit plans and proposed changes that are an exception to DOE policy.

(6) For other than corporate benefit programs, approve the contractor's methodology for evaluating its currently approved welfare benefits programs, consistent with contractual provisions and (a) and (b) below. An Employee Benefits Value (Ben-Val) Study Method using no less than 15 comparator organizations and an Employee Benefits Cost Survey comparison Method shall be used in this evaluation to establish an appropriate comparison method.

(a) When the contractor's cost and value is within the range of acceptability (i.e., no more than 5 percent above the comparator for other organizations), no further action is required.

(b) When the contractor's cost or value is greater than 5 percent above the comparator for other organizations, a corrective action plan to achieve conformance with the range of acceptability defined in (a) above will be required, unless otherwise justified in writing.

(7) Instruct contractors on the conduct and use of the methods for evaluating contractor welfare benefit programs using either the tables published by the U. S. Department of Labor’s Bureau of Labor Statistics, the Value Study method, or other nationally recognized survey consistent with departmental guidance.

(8) Approve a contractor's corrective action plan and evaluate contractor progress against the plan.

(9) Approve contractor benefit programs and program changes. If the program or changes result in the contractor's cost or value exceeding the range of acceptability defined in 4b(6)(a) above, the program or changes will only be acceptable if offset by changes that result in the contractor's costs or value being within the range of acceptability.

(10) Approve contractor proposals for new workers' compensation policies, initial proposals for self-insurance for workers' compensation, and assignment and/or settlement of workers' compensation programs.

(11) Establish a workers' compensation settlement claims threshold for contractors to obtain DOE approval; all settlement claims of $100,000.00 and more must be approved by the Contracting Officer.

(12) Assure that contracts contain appropriate insurance and other benefits program clauses and that each applicable Request for Proposals (RFP) contains such clauses.

(13) Assure that, where appropriate, competitive procurement procedures are followed by contractors to obtain needed insurance coverage.

(14) Assure that subsequent to contract termination or expiration, benefit continuation will be provided for those who earned such benefits, according to the approved benefit plans, on a funding basis most reasonable to the Department. Among acceptable arrangements for these provisions are paying a sum to the outgoing contractor to continue its liability, paying a third party such as an insurer or other contractor, to guarantee benefit payments, or continuing benefit payment obligation with the replacement contractor.

(15) Assure that funding in advance for benefits earned by contractor retirees will not be allowed unless such funding is required by state or federal statute. Such benefit payments will be provided on a pay-as-you-go basis.

(16) Assure that the contractors annually submit the Report of Contractor Expenditures for Employee Supplementary Compensation (see paragraph 5c).

(17) Approve contractor request for dependent care facilities when the following non discretionary elements apply:

(a) Workplace child-care centers or other facilities for children shall not be located at a DOE nuclear weapons complex or other hazardous materials site.

(b) Dependent care benefit programs for contractor-operated facilities must meet employee needs and management objectives based on a valid study of dependent care needs.

(c) Support costs associated with the operation of a contractor workplace or near workplace facility for exclusive use of DOE and contractor employees may include all or a portion of such expense items as utilities and maintenance, as well as food and medical services or supplies that are already being used in support of site operations and are readily available to additionally support the facility. Such use shall be approved by the contracting officer in advance. For the following costs to be considered allowable, capital construction of a facility must be validated and approved by the Contracting Officer.

1 Capital costs budgeted and accounted for in accordance with DOE requirements related to capital projects. If the results of the study indicate that dependent care needs can be adequately addressed through any option or combination of options other than a workplace or near workplace contractor sponsored dependent care facility, any costs associated with the lease or purchase of such facility shall not be reimbursable.

2 The costs for labor, materials, and supplies expended for the operation of contractor workplace or near workplace dependent care facilities shall not be allowable under any circumstances. However, options for employees to finance such costs through contractor employee welfare benefits programs flexible spending accounts are subject to the requirements of this chapter as it relates to welfare benefits.

(d) Any agreement between contractors and dependent care (program) provider organizations must ensure that contractors and the DOE are held harmless from liability.

1 Property damage liability and bodily injury liability insurance policies must be retained by the dependent care (program) provider organization in an amount appropriate for services provided. The contractors must also be insured under these policies.

2 Agreements between the contractors and dependent care (program) provider organizations must ensure that the provider organizations operate, maintain, and upgrade any proposed workplace dependent care facility in compliance

with federal, state, and local policies, regulations, and requirements for environment, safety and health.

5. REFERENCES.

a. Federal Acquisition Regulations 31.205-6, COMPENSATION FOR PERSONAL SERVICES.

b. Department of Energy Acquisition Regulations 970.3102-05-6, COMPENSATION FOR PERSONAL SERVICES.

c. Report of Contractor Expenditures for Employee Supplementary Compensation (located at http://energy.gov/sites/prod/files/cioprod/documents/3220-4a.pdf)

6. CONTACT. Contractor Human Resources Policy Division, at (202) 287-1330.

CHAPTER VI.
DOE CONTRACTOR PENSION PLANS

1. OBJECTIVES.

   a. To assign responsibilities for establishing, maintaining, and terminating pension plans provided for personnel employed by designated contractors at DOE facilities.

   b. To properly consign assets when contractors are replaced, a portion of the existing plan is spun off, or a plan terminates fully or partially.

   c. To provide guidance regarding the contractual treatment of separate and commingled pension plans where DOE has a continuing long-term involvement.

2. APPLICABILITY. This chapter is applicable to all DOE Elements responsible for management of cost reimbursable contracts that include provisions for DOE reimbursement of contractor human resources costs.

3. REQUIREMENTS. The following protective measures will be implemented for each contract that provides a continuing Departmental pension obligation.

   a. Separate accounting of assets resulting from DOE reimbursements and liabilities related to service under DOE contracts.

   b. Reimbursement to DOE of excess assets at time of contract termination or expiration or plan termination.

   c. Limitation on annual DOE reimbursements of contributions as specified herein.

   d. Approval by the contracting officer of any plan change.

4. RESPONSIBILITIES.

   a. Senior Procurement Executive.

      (1) Establishes DOE policy and requirements for contractor pension plans at DOE facilities.

      (2) Provides guidance to Field Offices on pension matters.

      (3) Advises the cognizant contracting officer concerning:

         (a) Structuring of pension plans, including funding levels and actuarial assumptions;

         (b) Changes in contractor pension plan provisions other than Taft-Hartley pension plan provisions;

(c) Final settlements of assets and liabilities; and

(d) The DOE-reimbursable portions of contractor contributions to Taft-Hartley pension plans.

(4) Maintains liaison on contractor pension matters with the Department of Labor, the Internal Revenue Service (IRS), the Pension Benefit Guaranty Corporation (PBGC), and the Cost Accounting Standards Board.

b. Heads of Contracting Activities (HCA). Approve contract provisions for contractor pension programs and changes to contractor pension plans covered by this order.

c. Cognizant Contracting Officers.

(1) Establish and negotiate contract provisions affecting contractor pension programs.

(2) Negotiate settlements with the contractor when a pension plan is modified or terminated, either fully or partially.

(3) Approve contract provisions and changes to contractor pension plans covered by this order when delegated by the HCA.

(4) Advise the Senior Procurement Executive of any significant changes in the funding status or level of assets in a pension plan.

d. General Counsel. Advises and assists in negotiations at time of contract termination, plan termination, plan spin-off, or plan merger, including reviewing fiduciary documents, as necessary.

5. REFERENCES.

a. Employee Retirement Income Security Act (ERISA) (Public Law 93-406, 29 U.S.C. Sections 1001 et seq.), as amended, defines federally mandated features of pension plans.

b. Internal Revenue Code (IRC) Sections 401 through 418 establish nondiscrimination and funding requirements, inter alia, that a pension plan must meet to qualify for a tax deduction.

c. Final and Temporary Internal Revenue Service (IRS) Regulations 1.401 through 1.418 provide working guidelines for applying the principles of the IRC.

d. Final and Temporary Department of Labor (DOL) Regulations 860 and 2500 through 2599 provide minimum standards for pension accrual formulas, pension crediting, retirement eligibility, and fiduciary roles.

e. Final and Temporary PBGC Regulations 2600 through 2699 prescribe the steps for terminating a defined benefit pension plan.

f. Cost Accounting Standards (CAS) 412, 413, and 415 describe minimum standards for measuring and allocating pension costs to a government contract activity.

g. Department of Energy Acquisition Regulation (DEAR) 970.3102-05-6 establishes the allocability and allowability of DOE contractor pension plans.

h. Federal Acquisition Regulation Part 31 establishes contract cost principles and procedures.

i. Federal Acquisition Regulation Part 32.6 establishes authority to collect debt.

j. Financial Accounting Standards Board (FASB) Statements 35, 87, and 88 provide generally accepted accounting principles for reporting pension expenses to the contractor's stockholders and to the Securities and Exchange Commission (SEC).

k. The Labor Management Relations Act of 1947 (61 Stat. 136, 29 U.S.C. Sections 141 et seq.) (Taft-Hartley Act) establishes the legal basis for collectively-bargained, trusteed pension plans (i.e., multi employer plans).

6. CONTACT. Contractor Human Resources Policy Division, at (202) 287-1330.

CHAPTER VII.
RISK MANAGEMENT AND INSURANCE PROGRAMS

1. OBJECTIVES.

   a. To assign responsibilities and authorities for the review and approval of contractor insurance programs, i.e., Any type of insurance policy that protects the contractor from the risk of being held legally liable for adverse actions associated with its operations, including malpractice, injury or negligence. Types of insurance includes general liability, automobile liability, employer's liability, etc.

   b. Ensure compliance with applicable 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.

2. APPLICABILITY. This chapter is applicable to all DOE elements responsible for management of contracts that include provisions for the reimbursement of contractor human resources and insurance costs, such as a third party liability insurance cost.

3. REQUIREMENTS. A cost-effective insurance program will be developed pursuant to FAR part 28 and DEAR part 928.

4. RESPONSIBILITIES.

   a. Senior Procurement Executive.

      (1) Develops policies, procedures, and standards for contractor insurance programs.

      (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) final insurance policy or program cost settlements,

         (d) claim threshold reviews and reviews of claims that exceed established thresholds,

         (e) support of claims services negotiation, and

         (f) required language in covered contracts.

(3) Act as a liaison and consults with other federal agencies and insurance industry organizations concerning insurance matters.

(4) Notifies the Office of General Counsel responsible for the technical oversight of Contractors Legal Management Plans when third party liability law suits or claims are filed or received in accordance with 10 CFR part 719.

b. Heads of Contracting Activities (HCA).

(1) Ensure compliance with the policies, procedures, and requirements set forth in this chapter.

(2) Ensure that proposed commercial insurance policies clearly define the coverage required by the terms of the contract; or authorized by the Contracting Officer for the specific type of risk associated with the operation and performance of the facility or contract.

(3) Approve insurance program(s) and determines whether the contractor has conducted a comprehensive market study, i.e., a knowledge based of insurance market including a comparison of the available risk funding instruments (i.e., insurance plan, self-insurance plan, and combination insurance/self-insurance plan) for efficiency and cost effectiveness.

c. Cognizant Contracting Officers.

(1) Establish and negotiate contract clauses affecting contractor insurance programs.

(2) Approve contractor insurance policies and plans proposed for operations at DOE facilities when delegated by the HCA.

(3) Approve renewal insurance policies and plans for contractor operations at DOE facilities when delegated by the HCA.

(4) Ensure that the required insurance provisions and clauses are contained in all solicitations and contracts, respectively.

(5) Ensure contractor submits a copy of approved insurance policy(ies), self-insurance certificate(s), and agreement(s)/contract(s) for DOE's permanent file/records.

(6) Ensure that contractor's self-insurance proposal justifies the self-insurance rates and charges, and that the cost of self-insurance does not exceed the cost of a competitively purchased insurance.

(7) Obtain contractor's annual review of insurance cost, self-insurance charges, and loss/claims experience data to ensure that insurance premium

and/or self-insurance charges are reasonable.

5. REFERENCES.

a. Public Law 83.703, ATOMIC ENERGY ACT OF 1954, as amended.

b. Federal Acquisition Regulations (FAR) 28.3, INSURANCE.

c. Department of Energy Acquisition Regulations (DEAR) 928.3, INSURANCE.

d. FAR Part 30, COST ACCOUNTING STANDARDS ADMINISTRATION.

e. FAR 31.205-19, INSURANCE AND INDEMNIFICATION.

f. DEAR 931.205-19, INSURANCE AND INDEMNIFICATION.

g. Cost Accounting Standards (CAS) 416, ACCOUNTING FOR INSURANCE COSTS.

h. DEAR 950, EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT, describes DOE contractual indemnification authority for nuclear and non-nuclear public liability risks.

i. DEAR 950.70, NUCLEAR INDEMNIFICATION OF DOE CONTRACTORS.

j. DEAR 950.71, GENERAL CONTRACT AUTHORITY INDEMNITY.

k. DEAR 970.28, BONDS AND INSURANCE

l. DEAR 970.5070, INDEMNIFICATION.

m. DEAR 970.5228-1 INSURANCE-LITIGATION AND CLAIMS

n. DEAR 952.231.71, INSURANCE-LITIGATION AND CLAIMS.

6. CONTACT. Contractor Human Resources Policy Division, MA-612, at (202) 287-1330.

CHAPTER VIII.
CONTRACTOR WORKPLACE SUBSTANCE ABUSE PROGRAMS

1. OBJECTIVES.

   a. To maintain a substance abuse free workplace at DOE facilities operated under the authority of the Atomic Energy Act of 1954 as amended.

   b. To ensure Contractor Workplace Substance Abuse Programs that comply with the requirements in 10 CFR 707, Work Place Substance Abuse Programs at DOE Sites and with the requirements of other Federal agencies, are developed and implemented.

2. APPLICABILITY.

   a. This chapter applies to all DOE Elements that manage contracts for the management and operation of DOE facilities and other contracts or subcontracts with a value of $25,000 or more that have been determined by DOE to involve:

      (1) access to or handling of classified information or special nuclear material,

      (2) transportation of hazardous materials to or from a DOE site, and/or

      (3) high risk of danger to life, the environment, public health and safety, or national security.

   b. The drug testing provisions apply only to those contractors and subcontractors where positions subject to testing, pursuant to 10 CFR 707, called Testing Designated Positions (TDP's), have been identified and/or applicable testing regulations of other Federal agencies (e.g. Department of Transportation regulations) are applicable.

3. REQUIREMENTS. Contractor Workplace Substance Abuse Programs shall conform to the requirements of 10 CFR 707 and applicable regulations issued by other Federal agencies.

4. RESPONSIBILITIES.

   a. Assistant Secretary for Defense Programs. Develops policy and issues implementation guidance for any substance abuse requirements in the Personnel Assurance Program that are in addition to those in 10 CFR 707, regulations of other Federal agencies, and this chapter.

   b. Assistant Secretary for Environment, Safety and Health through the Office of Occupational Medicine and Medical Surveillance. Develops policies, procedures, and standards for the medical and behavioral aspects of human reliability programs, including treatment and followup for Contractor Workplace Substance Abuse programs.

c. Deputy Assistant Secretary for Procurement and Assistance Management.

(1) Provides consultation, advice, and assistance to Heads of Contracting Activities and contractors to facilitate effective implementation of Workplace Substance Abuse programs.

(2) Maintains a consolidated record of prime contractors and subcontractors that the cognizant Heads of Contracting Activity have determined to be covered by 10 CFR 707 and provides a current list to the Managers of Field Elements and covered contractors on at least a semiannual basis.

d. Director, Office of Nonproliferation and National Security. Develops policy and issues implementation guidance for any substance abuse requirements in the Personnel Security Assurance Program that are in addition to those in 10 CFR 707 and this chapter.

e. Heads of Contracting Activities.

(1) Include the following in the procurement request package for each DOE procurement requiring the application of 10 CFR 707, substance abuse testing programs of other Federal agencies and this chapter.

(a) Those requirements in 10 CFR 707 appropriate to the specific site and/or facility.

(b) Requirements for the flow-down of 10 CFR707 to any subcontract covered by the regulation.

(c) Requirements for substance abuse testing for other Federal agencies.

(2) Review and approve Contractor Workplace Substance Abuse Programs, including provisions for testing designated positions.

(3) Review and approve in advance the annual costs associated with contractor Workplace Substance Abuse Programs.

(4) Approve contractor requests to conduct additional testing programs as permitted in Sections 10 CFR 707.5(e) and 707.7(d).

5. REFERENCES.

a. 10 CFR 707, Work Place Substance Abuse Programs at DOE Sites, which establishes requirements and defines program elements for programs established by contractors for prevention, education and testing to deal with possible use of illegal drugs.

b. "Mandatory Guidelines for Federal Workplace Drug Testing Programs" issued by Department of Health and Human Services in Federal Register dated June 9, 1994, and subsequent revisions.

c. "Substance Abuse Education and Training: A Resource Guide for Compliance with 10 CFR part 707" dated January 1994.

d. Department of Transportation Regulations:

(1) Drug and Alcohol Testing Rule, 49 CFR part 40

(2) Federal Highway Administration, 49 CFR part 382

(3) Federal Transportation Agency, 49 CFR parts 653 and 654

(4) Federal Aviation Administration, 14 CFR part 121

(5) Research and Special Program Administration, 49 CFR part 199

(6) Federal Railroad Administration, 49 CFR part 219

e. Nuclear Regulatory Commission, 10 CFR part 26, Fitness-for-Duty Program.

6. CONTACT. Office of Contractor Human Resource Management, at (202) 586-9008.

CONTRACTOR REQUIREMENTS DOCUMENT
CONTRACTOR WORKPLACE SUBSTANCE ABUSE PROGRAMS

1. The following requirements apply to contracts for the management and operation of DOE facilities and other contracts or subcontracts with a value of $25,000 or more that have been determined by DOE to involve:

   a. access to or handling of classified information or special nuclear material,

   b. transportation of hazardous materials to or from a DOE site, and/or

   c. high risk of danger to life, the environment, public health and safety, or national security.

2. Comply with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites. DOE contractors that have positions that fall within the scope of other agency requirements shall, in addition, comply with the substance abuse program requirements of those agencies. These include the Department of Transportation (DOT), the Nuclear Regulatory Commission (NRC), and the Department of Defense (DOD).

3. Submit to the Contracting Officer for approval:

   a. A written Workplace Substance Abuse Program consistent with the minimum requirements of 10 CFR part 707, Workplace Substance Programs at DOE Sites, and provides for baseline services including education awareness programs on the hazards of using substances in the DOE workplace; supervisory training on their responsibilities with impaired employees; and Employee Assistance Program services. Where testing designated positions have been identified, contractors must include a testing program that meets the requirements of the Department of Health and Human Services Mandatory guidelines and 10 CFR part 707.

   b. The written program shall include: (Contractors which have no testing designated positions may exclude (7)(c), (8), and (9) below.)

      (1) Contractor name, address, and telephone and fax numbers.

      (2) Program manager name, title, address, and telephone and fax numbers.

      (3) All federal regulations on substance abuse testing that are applicable.

      (4) Formal policy statement as required by 10 CFR part 707.5 (a)(3).

      (5) Identification of any testing designated positions and indication or estimation of the number and type for each of the following categories, as applicable.

         (a) Personnel Assurance Program.

(b) Personnel Security Assurance Program.

(c) National Security.

(d) Safety and Health and other critical/ sensitive positions.

(e) Visitors with unescorted access to reactor control areas.

(f) Additional positions required by the Contracting Officer or company policy that are in excess of 10 CFR part 707 requirements (i.e. applicants, specific positions).

(6) Identification of positions covered by requirements of other Federal agencies.

(7) A description of whether each service such as Employee Assistance Program services, specimen collection, laboratory analysis, or Medical Review Officer services is provided by an employee or external entity. Identify the name, title, department, location, telephone number (where applicable), and duties and responsibilities.

(8) Employee Assistance Services, Education and Training.

(a) Description of how prevention assessment and referral services will be provided.

(b) Description of education and training program components, including system for the documentation of training provided to employees, supervisors, and other contractor management officials to comply with requirements of 10 CFR 707 and applicable regulations of other Federal agencies.

(c) Policy on rehabilitation and return-to-duty criteria, when applicable.

(9) When applicable, describe general procedures used to collect and process specimens and specified procedures for each of the following types of tests.

(a) Applicant Testing.

(b) Random Testing, selection methods.

(c) Reasonable Suspicion Testing. Describe contractor provisions to ensure that supervisors and officials are properly trained to make the determinations necessary with regard to reasonable suspicion testing.

(d) Describe contractor provisions to ensure that proper determinations are made with regard to occurrence testing.

(e) Return-to-Duty Testing.

(f) Followup Testing.

(10) Describe how the program will ensure the rights of personnel in testing designated positions regarding privacy, confidentiality, and access to test results. The conditions for permitting and prohibiting access to information for each entity involved in the program (e.g., supervisors, collectors, Medical Review Officers and Department of Energy officials) should also be specified.

(11) Describe plans for program evaluation and those of their subcontractors, as applicable.

c. A plan on subcontractor application that describes:

(1) the method for determining coverage of all lower tier subcontractors, in accordance with requirements of 10 CFR part 707 and other Federal agencies;

(2) the contractor's review and approval of subcontractor plans;

(3) the methods for evaluating Workplace Substance Abuse Programs of covered subcontractors at all lower tiers; and

(4) contractor-subcontractor agreements for shared services.

d. Ensure that all service providers are qualified and perform according to the requirements of 10 CFR part 707, Department of Health and Human Services, and Department of Transportation regulations.

4. <u>Submit reports and maintain records as follows.</u>

a. Submit to the Contracting Officer reports consistent with 10 CFR 707 on program results and separate reports on each of the lower tier subcontractors including testing results where there are testing designated positions and for positions subject to requirements of other Federal agencies.

b. Maintain records in such a manner that permits preparation of a semiannual

c. report, covering the periods January 1 to June 30 and July 1 to December 31, to be provided within 30 days of the close of each period.

d. These reports will include the following information for each of the categories identified in 2b(5) above.

(1) The total number of tests administered for illegal drugs.

(2) The number of tests administered in each testing category (i.e., random, occurrence, reasonable suspicion, return-to-duty, followup). Include and identify tests administered under authority of another Federal agency or independent contractor authority which are used to satisfy DOE requirements.

(3) The number of additional tests administered (e.g. applicants).

(4) The number of tests administered to comply with requirements of other Federal agencies.

(5) The number of individuals who receive a Medical Review Officer-determined positive test by testing category.

(6) The number of individuals who received a Medical Review Officer-determined positive test by drug category.

(7) The action taken with regard to each individual who received a Medical Review Officer-determined positive test (e.g., referral to employee assistance services, termination, removal from a testing designated position).

(8) Education and training required in 10 CFR 707 for supervisors/managers and employees.

CHAPTER IX.
EMPLOYEE ASSISTANCE PROGRAMS

1. OBJECTIVE. To ensure that contractors that manage and operate DOE facilities provide employee assistance program services that conform to the requirements of 10 CFR 707, Work Place Substance Abuse Programs at DOE Sites and regulations of the Department of Transportation. Additional employee assistance program services, as appropriate, should be made available to contractor employees and their dependents.

2. APPLICABILITY. This chapter applies to all DOE Elements that manage contracts where the contractors are subject to the requirements of 10 CFR 707 to the extent set forth in a contract and other contracts where Employee Assistance Programs are provided.

3. REQUIREMENTS. Employee assistance programs shall be developed and implemented to conform to the requirements of 10 CFR 707 and other directives.

4. RESPONSIBILITIES.

   a. Deputy Assistant Secretary for Procurement and Assistance Management.

      Provides consultation, advice and assistance to Heads of Contracting Activities and contractors to facilitate implementation of Employee Assistance Programs so that they provide an effective set of services to contractor employees.

   b. Assistant Secretary for Environment, Safety and Health, Office of Occupational Medicine and Medical Surveillance.

      (1) Reviews and approves the medical-behavioral aspects of contractor Employee Assistance Programs.

      (2) Assists in developing education and training materials concerning the medical-behavioral aspects of Employee Assistance Programs.

      (3) Determines medical-behavioral standards and guidelines for Employee Assistance programs.

   c. Heads of Contracting Activities. Review and approve all contractor implementation plans and associated costs for Employee Assistance Programs.

5. REFERENCES. 10 CFR 707, WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES.

6. CONTACT. Office of Contractor Human Resource Management, at (202) 586-9008.

CONTRACT REQUIREMENTS DOCUMENT
EMPLOYEE ASSISTANCE PROGRAMS

1. Provide a program of preventive services, education, short-term counseling, coordination with and referrals to outside agencies, and follow-up upon return to work that conforms to the requirements of 10 CFR 707.6, EMPLOYEE ASSISTANCE, EDUCATION, AND TRAINING. A description of the Employee Assistance Program services shall be included in contractor Substance Abuse Plans. In addition, the Employee Assistance Programs shall provide services for other medical behavioral, mental, emotional or personal problems of employees and dependents.

2. Contractors not covered by the provisions of Workplace Substance Abuse Programs at DOE sites, 10 CFR part 707, shall provide a program of consultation services, assessment, referral for treatment and/or rehabilitation, and educational services concerning illegal drug use or other medical-behavioral, mental, emotional or personal problems of employees and dependents.

3. Submit for approval by the Contracting Officer an employee assistance program implementation plan that addresses the following.

   a. A policy statement.

   b. The service delivery design, with services provided by either the contractor's own staff or through a subcontractor and coordinated with community services and services available through the health benefits plan. The design shall include program education and awareness, crisis intervention, problem assessment and referral, follow-up and monitoring services, and short-term counseling.

   c. Name of Employee Assistance Program coordinator.

   d. Needs assessment information.

   e. Budget data.

   f. A program evaluation plan.

   g. A description of the system used to ensure confidentiality of records. Contractors will maintain confidentiality of information and records to the extent required by applicable statutes and regulations.

   h. Employee and supervisor training.

   i. Organizational partnerships, i.e. internal and external groups and organizations involved in integrated programs to assist employees and dependents.

   j. Specific Employee Assistance Program requirements of other government agencies, such as the Department of Transportation and the Nuclear Regulatory Commission.

4. Implement an Employee Assistance Program that includes the following components:

a. Written policies and procedures.

b. Services provided by staff who have training appropriate to their specialty and are certified or licensed, as required by the state in which the facility operates.

c. If services are provided by external vendors, identify the providers for on-site and off-site delivery of services.

d. Confidentiality and referrals.

e. Employees may request Employee Assistance Program services at their own initiative, or they may accept both suggested and formal referrals by their supervisor.

(1) Self-Referral and Supervisory Suggested Referral.

(a) Communication between the employee and the program staff will be confidential except as allowed or required by applicable laws and regulations. For example, confidentiality is not required when the employee has signed an appropriate waiver pursuant to applicable DOE security requirements, or, in the opinion of the Employee Assistance Program staff, the individual presents a clear or imminent danger to self or others.

(2) Supervisory Formal Referral.

(a) The content of communication between the referred employee and the Employee Assistance Program will be in confidence.

(b) When the referral is for substance abuse or safety concerns, and if a signed release has been provided by the employee, the Employee Assistance Program staff will inform contractor management in a timely manner if rehabilitation services have been refused or discontinued against advice. Management will require a signed release before evaluation, treatment, and follow-up monitoring services.

(c) Orientation. Staff will explain the limits of confidentiality to employees at the initial interview and through descriptive material. Employees will be informed that with the exception of legal limitations, access to confidential information maintained by the Employee Assistance Program about the individual will be provided only upon receipt of a special consent for release of information signed by the employee.

(d) For employees with Access Authorizations who are in the Personnel Assurance Program (PAP) or the Personnel Security Assurance Program (PSAP), communications from Employee Assistance Program staff are not permitted, except as provided in paragraph (e) below, without the employee's written consent unless a waiver has been signed as part of the employee's entry into PAP or PSAP.

(e) If, in the opinion of the Employee Assistance Program staff, allowing the employee to continue in a work assignment would create a threat to health, safety, or the national security, the Employee Assistance Program staff will notify contractor management if the employee is unwilling to do so. If the threat is based on national security concerns, the contractor shall notify the cognizant DOE security official.

5. Implement an Employee Assistance Program that provides the following services.

a. For employees.

(1) Employee orientation and training about the Employee Assistance Program. All employees will be informed at least annually of the availability of Employee Assistance Program services, including the nature of services and limits of confidentiality.

(2) Problem assessment and referral to appropriate resources.

(3) Short-term counseling, provided either internally or externally.

(4) Crisis intervention for individuals who are experiencing emergencies or acute behavioral problems, including the threat to harm self or others.

(5) Follow-up services following treatment or rehabilitation.

b. For contractor management.

(1) Training on identification of deteriorating job performance or judgment, or observation of unusual conduct, and appropriate handling and referral to the Employee Assistance Program. Training shall be provided upon program implementation and on appointment of new supervisors and managers. Other Employee Assistance Program information shall be made available at least annually.

(2) Medical-behavioral health care management assistance.

(3) Fitness for Duty evaluations and recommend Fitness for Duty status of employees formally referred by management to the Employee Assistance Program for substance abuse or safety concerns and refer employee to the

on-site occupational medical program or off-site to a qualified health care provider if on-site occupational medical services are not available.

6. Prepare and submit information to DOE concerning Employee Assistance Program services as requested by the Contracting Officer. Such reports shall not include individual identifiers.

U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 350.1 Chg 1

Chg 1: 5-8-98

SUBJECT: CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS

1. PURPOSE. To transmit revised pages to DOE O 350.1, CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS, OF 9-30-96.

2. EXPLANATION OF CHANGE.

   a. The change to Chapter V, paragraph 4b(6)(b), deletes the clause requiring the Head of Contracting Activity to do an in-depth study if contractor values exceed the acceptable range because both the value study and Chamber of Commerce study provide in-depth back-up information as to why the contractor has exceeded the acceptable range.

   b. The change to Chapter V, paragraph 2a, Contractor Requirements Document (CRD), Attachment 1, inserts the acceptable range of values permitted by DOE and mirrors the requirements outlined in Chapter V. These ranges were inadvertently omitted in the CRD when the Order was first issued.

3. FILING INSTRUCTIONS.

   a.

Remove Pages	Dated	Insert Pages	Dated
V-1 and V-2	9-30-96	V-1	9-30-96
		V-2	5-8-98
Attachment 1	9-30-96	Attachment 1	5-8-98
V-5 and V-6		V-5	
		Attachment 1	9-30-96
		V-6	

   b. After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:

ARCHER L. DURHAM Assistant Secretary for Human Resources and Administration

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of Human Resources and Management

U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 350.1 Chg 2

Chg 2: 11-22-09

SUBJECT: CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS

1. PURPOSE. To transmit revised pages to DOE O 350.1, *Contractor Human Resource Management Programs*, dated 9-30-96.

2. EXPLANATION OF CHANGE. Funding requirements are revised to align with the Pension Protection Act of 2006.

3. LOCATION OF CHANGE.

Page	Paragraphs
VI-6	2.a-b

After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:

DANIEL
PONEMAN
Deputy Secretary

U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 350.1 Chg 3

Chg 3: 2-23-10

SUBJECT: CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS

1. PURPOSE. To transmit revised pages to DOE O 350.1, *Contractor Human Resource Management Programs*, dated 9-30-96.

2. EXPLANATION OF CHANGE. Funding requirements are revised to align with the Pension Protection Act of 2006.

3. LOCATION OF CHANGE.

Page	Paragraph
VI-6	2.a-b

After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:

DANIEL
PONEMAN
Deputy Secretary

U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 350.1 Chg 4

Chg 4: 5-8-13

SUBJECT: CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS

1. PURPOSE. To define Page Change to DOE O 350.1, *Contractor Human Resource Management Programs*, dated 9-30-96.

2. EXPLANATION OF CHANGE. The Order is being revised to remove contractor requirements from Chapter IV, Compensation; Chapter V, Benefits; and Chapter VI Pensions. This change would eliminate the potential variance and/or duplication between the CRD and the contract Special H Clause alleviating delays in mission execution (i.e., improve mission execution).

3. LOCATION OF CHANGE.

Page	Paragraph
1	2
2	3a 3b
Contents-page 5 page 6	Chapter IV Attachments Chapter V Attachments Chapter VI Attachments
VI-1	2, 3, 4a, 4b(2)(b)
VI-2	4b(2)(d), 4b(3), 4b(4), 4b(6), 5b 5c-5d, 6
Chapter VI	
Attachment 1	Deleted
Attachment 2	Deleted
Attachment 3	Deleted
Attachment 4	Deleted
Attachment 5	Deleted
V-1	2, 3, 4a, 4a(6)
V-2	4b(5), 4b(6), 4b(6)(a), 4b(7)
V-3	4b(9), 4b(10), 4b(16)
V-4	4b(17)-4b(17)(c)3

V-5	4b(17)(d)- 4b(17)(d)2 5c, 6
Chapter V	
Attachment 1	Deleted
Attachment 2	Deleted
VI-1	2, 4a
VI-2	4c(4)
VI-3	5g, 6
Chapter VI	
Attachment 1	Deleted
Attachment 2	Deleted

BY ORDER OF THE SECRETARY OF ENERGY:

DANIEL PONEMAN
Deputy Secretary