

The Department of Energy



Idaho Operations Office (DOE-ID)

Workforce Restructuring Plan

Idaho National Laboratory

September 2008

(Update Of The July 1998 Plan)

NOTE: MODIFICATIONS TO THIS PLAN OR TO PLAN BENEFITS MAY BE REQUIRED IF CIRCUMSTANCES CHANGE, E.G., IF THERE IS A CHANGE IN IMPLEMENTING POLICY OR IN FUNDING CONSTRAINTS. THE DEPARTMENT OF ENERGY RESERVES THE RIGHT TO CHANGE THE TERMS OF THIS PLAN. THERE IS NO GUARANTEE THAT ANY REQUIRED FUTURE RESTRUCTURING OF THE WORK FORCE WILL HAVE BENEFITS EQUAL TO OR GREATER THAN THOSE CONTAINED WITHIN THIS PLAN. IT IS NOT THE INTENT OF DOE IN IMPLEMENTING THIS WORK FORCE RESTRUCTURING PLAN TO CREATE ANY PRIVATE RIGHT OF ACTION, OR TO MODIFY OBLIGATIONS IMPOSED UPON EMPLOYERS OR EMPLOYEE REPRESENTATIVES BY LAW, EXECUTIVE ORDER, OR CONTRACT.

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I. INTRODUCTION

A. EXECUTIVE SUMMARY

Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 directs the Secretary to develop, with input from affected stakeholders, a plan for work force restructuring upon a determination that a change in the work force is necessary at a Department of Energy (DOE) defense nuclear facility. The objectives of such a plan are to minimize involuntary separations, reduce the social and economic impact of restructuring on individuals who are involuntarily separated, and mitigate the detrimental effects of restructuring on the surrounding communities.

This plan updates and replaces the current Idaho Operations Office (DOE-ID) Work Force Restructuring Plan (“Plan”), dated July 1998. Once approved, this updated Plan will set forth conditions for responding to the changing mission and contract structure of the Idaho National Laboratory (INL). This Plan covers all major contractors reporting to DOE-ID. Future amendments to this Plan will be provided if any significant changes are necessary. This is an open-ended-multi-year plan without a termination date and provides the guidelines for all restructuring actions at the INL.

The benefits described in this Plan are consistent with the authority granted in Section 3161, and the implementing policy and directives of the DOE.

This Plan is intended to be the general framework within which the DOE-ID contractors’ work force restructuring actions will be implemented. Implementation plans for specific contractors’ employment reductions, or work force restructuring actions, will be developed as necessary using this Plan as a guide and in recognition of the programmatic, financial, and other relevant factors of each case.

This Plan attempts to minimize the impact of restructuring on affected employees and the community to the extent practicable and to the extent funding is available through means such as:

- Internal transfers to job openings within the contractors’ work forces where employees can perform the work required with retraining or reorientation as practicable in the circumstances and consistent with the hiring benefits discussed below.
- Voluntary reduction programs designed to encourage voluntary separations in order to reduce the risk of involuntary separations.
- Retraining assistance for internal job opportunities.
- Implementation of a rehiring preference for involuntarily separated employees who meet Section 3161 eligibility requirements.

- Outplacement assistance for eligible employees to maximize job placement externally when internal placement or retraining programs are not practicable.
- Consultation and coordination with the community and area stakeholders to assure that avenues of assistance are available for affected workers and that the objectives of Section 3161 are otherwise met.

B. PREFACE

The name of the Idaho National Engineering Laboratory (INEL) was changed to the Idaho National Engineering and Environmental Laboratory (INEEL) in FY 1997 to reflect the changing mission of the Laboratory and its focus on the technical challenges related to the environment. The name change reflected the major engineering and research role the INEEL provided nationally to the DOE Office of Environmental Management (EM). In May of 2003, Energy Secretary Abraham approved the transfer of Headquarters Lead Program Secretarial Office (LPSO) functions for the INEEL and management responsibility for the Idaho Operations Office (DOE-ID) from EM to the Office of Nuclear Energy, Science and Technology (NE). In April 2003, Secretary Abraham announced that DOE would compete and award two separate contracts to implement DOE's plan to: 1) revitalize the nuclear energy mission; and 2) to accelerate the environmental cleanup of the site. The Secretary also announced that the INEEL and the Argonne National Laboratory -West would be merged and the name of the site changed to the Idaho National Laboratory (INL).

The new INL's three strategic goals are:

- Creating a world-class nuclear energy and national security research and development laboratory under the direction of NE;
- Completing the environmental cleanup in a safe, cost-effective manner under the direction of EM; and
- Ensuring the safe, reliable, and efficient execution of the DOE/INL missions.

This Plan sets forth policies and procedures for future work force restructuring under the direction of DOE-ID. This Plan is intended to be responsive to the specific objectives of Section 3161 of the National Defense Authorization Act of FY 1993, DOE published guidelines, budget constraints, contract changes, stakeholder input, and other obligations. Budget and/or skill mix uncertainties make detailed, long-range projections extremely difficult.

In accordance with DOE interim guidance, policies for work force restructuring and planning activities have been developed and managed by DOE-ID. The general objective of this Plan is that restructuring activities at the INL will continue to be managed in a manner fully consistent with the purposes and policies of Section 3161 and DOE published guidelines. The specific objectives of the Plan include:

- Effectively managing involuntary separations,
- Minimizing the impact of restructuring on individuals who are involuntarily separated,
- Mitigating the detrimental effect of restructuring on the surrounding communities,
- Maintaining the integrity of the core competency required to safely and responsibly operate the INL, and
- Restructuring and reorganizing INL operations as needed to support DOE's strategic objectives.

This Plan does not include any restructuring activities that may be contemplated at the Naval Reactor Facilities (NRF), which is an INL facility managed by DOE's Pittsburgh Naval Reactors Office.

II. ROLES AND RESPONSIBILITIES

A. STAKEHOLDER INPUT

Upon a determination that the work force at a DOE defense nuclear facility should be restructured, Section 3161 requires DOE to consult during development of a work force restructuring plan with appropriate representatives of state and local governments, appropriate representatives of affected employees, and other INL stakeholders affected by the change in the work force. DOE is committed to ensuring stakeholder involvement in developing policies regarding work force restructuring at the INL and has taken the following steps:

- Notified stakeholders of the 7-day comment period and made the draft Plan available on the DOE-ID website for a 7-day comment period.
- Analyzed written comments received.
- Made appropriate changes to the draft Plan, consistent with stakeholder comments.

DOE will:

- Transmit the approved Plan to Congress.
- Distribute the approved Plan and post it on the DOE-ID website.

B. DOE RESPONSIBILITIES

DOE is responsible for establishing work force restructuring policy and developing the Section 3161 Plan. In order to comply with applicable laws, DOE Orders, policy and guidelines, contractors shall obtain prior DOE approval for any restructuring activity involving separation of more than 100 employees over a twelve-month period (see procedures outlined below). DOE-ID will evaluate the contractors' implementation of this Plan. Consistent with its obligations under Executive Order 11246 of September 24, 1965, as amended by Executive Order 12086 of October 5, 1978, DOE will particularly scrutinize any proposed work force restructuring actions involving fifty or more employees in a twelve-month period for possible disparate impact on minorities and other protected classifications of employees.

C. THE ROLE OF DOE CONTRACTORS

1. The Employers

While DOE-ID contractors are not identified as stakeholders in Section 3161, they cannot be realistically excluded from the process of developing a work force restructuring policy. The information they supply is used to evaluate the existing work force and to determine the need for restructuring. Contractors, not DOE, are the employers of the employees who will be affected by work force restructuring activities, and as such, have responsibilities to the employees. It is also the contractors that must implement the work force restructuring policy developed by DOE and the contractors must terminate the employment of the separating employees. The contractors are parties to collective bargaining agreements. The contractors sponsor and are responsible for managing and administering pension and benefit plans.

The contractors will perform their own work force planning consistent with the DOE Section 3161 Plan. Subject to DOE approval, the contractors' work force restructuring plans may also be multi-year restructuring plans, which may need to be revised and updated periodically.

2. Communications

Timely and accurate communication with employees is essential. Contractors are expected to comply in all respects with the requirements of DOE Orders, policy and guidelines regarding announcement of work force restructuring actions. Contractors are responsible for communicating information regarding work force restructuring to employees before releasing information to the news media. Contractors will ensure that all information intended for release to internal or external audiences will be consistent with all legal and contractual requirements, including any applicable personnel policies.

III PLANNING

A. PLAN APPLICABILITY

This is an open-ended Plan without a termination date. Unless amended, withdrawn, or replaced, it will provide the guidelines for all future work force restructuring actions involving operations conducted under DOE-ID. The benefits described in this Plan are subject to the availability of funds. It is DOE policy that Displaced Worker Medical Benefits (described below) and outplacement assistance benefits (as provided by the State of Idaho) are to be offered to all eligible displaced employees; however, changes in this policy may be made depending on the circumstances of the restructuring actions and availability of funds. Certain involuntarily separated employees who meet the criteria set forth in Section V.C of this Plan will be entitled to the Section 3161 rehiring preference. Any “enhanced benefits” requested by the contractors (i.e., benefits above and beyond those legally required) are subject to DOE approval and the availability of funds. Although this Plan applies to contractor and subcontractor employees, it does not necessarily provide all of them with the same benefits.

B. TIMING OF NOTIFICATION OF WORK FORCE RESTRUCTURING

Advance notification of intent to implement work force restructuring actions should be provided as early as possible to maximize notification to the work force and the community, with an objective of a 120-day notice to employees and the community to facilitate stakeholder consultation in the development of a workforce restructuring plan prior to the involuntary separation (other than for cause) of employees.

Any involuntary separation will also be conducted consistent with DOE Orders, policies, guidelines and applicable laws and regulations. If the Worker Adjustment and Retraining Notification (WARN) Act is applicable to a particular involuntary work force restructuring program, affected employees will be given written notice consistent with the applicable legal requirements prior to their separation.

DOE recognizes that any planned contractors’ reductions in employment levels at the INL could cause a high level of anxiety within the work force. To minimize this anxiety, contractors will endeavor to communicate frequently, openly and honestly with employees.

C. WORKFORCE PLANNING

The skill mix necessary to carry out changing missions and the assessment of skills needed in future years compared to the skills of the existing work force will be continually reviewed. Toward that end, contractors will complete an annual skills mix assessment and as needed, update the existing skill mix inventory. The objectives will be to assure that the resulting work force is capable of carrying out the mission of the INL and that any adverse impact on the existing work force, as well as on the surrounding community, is minimized. However, uncertainties regarding mission, as well as the skills that will be needed to accomplish future mission, make detailed, long-range planning and projections extremely difficult.

1. Skills Inventory

An inventory of the skills of the contractors' work forces will be maintained and updated as needed. The skills included in the inventory are those that employees already possess and can readily demonstrate. An updated skills inventory and the assessment of skills needed by the contractors will be completed prior to any further work force restructuring actions that result in employee separations. Employees should be encouraged to ensure that the information available accurately reflects all of their education, retraining, certifications, etc.

In order for the skills inventory to be of maximum benefit to the employees and the contractors with respect to transferring, training, and staffing projections, the inventory should be expressed in terms of the skills required to meet continuing mission requirements.

2. Assessment of Skills Needed Relative to Skills Requirements

In order to meet future staffing needs, the contractors will prepare and maintain a three-year work force assessment reflecting: 1) projected work force skills requirements, 2) the current composition of the work force, and 3) the feasibility of retraining existing employees to meet changing mission requirements. This assessment, showing present employment levels and future skills requirements based on projected missions and budget estimates for the three-year period, will be updated at least annually.

3. Workforce Planning and Restructuring Strategy

DOE is responsible for determining overall workforce restructuring policy for the INL. Contractors are responsible for implementation of DOE work force restructuring policy, oversight of restructuring affecting their work force and any specific work force restructuring programs conducted under this Plan. Attrition will be managed to minimize the need for involuntary separations. Contractors will identify, review and document skills mismatches, excesses or deficiencies according to skill classification prior to conducting a voluntary or involuntary separation program. **DOE strongly disapproves hiring from the outside which has the effect of "backfilling" the positions of individuals separating as part of either a voluntary or involuntary separation program.**

IV. WORK FORCE RESTRUCTURING PROGRAMS

When a voluntary or involuntary separation program is planned, contractors will be expected to fully satisfy their obligations toward any labor organization representing their employees. Prior to conducting a separation program, the contractors will give union officials representing affected bargaining units notice of the action contemplated and comply with any obligations under the National Labor Relations Act as it relates to bargaining in the situation, as well as with any procedures set out in the collective bargaining agreements.

A. GENERAL PROCEDURES FOR WORK FORCE RESTRUCTURING

Consistent with applicable DOE guidance, prior DOE approval is not needed for any restructuring activities involving separations of fewer than 100 employees over a twelve-month period. However, even in cases where approval is not required, the following procedures will be used to notify DOE-ID of any restructuring actions:

- If the restructuring involves fewer than 10 employees being separated, the contractor will notify DOE-ID of each restructuring action by e-mail.
- If the restructuring involves the separation of 10 and up to 100 employees over a twelve-month period, the contractor will notify DOE-ID by formal letter.
- For all restructuring actions, DOE-ID must be given at least 15-days notice.
- All notices must contain pertinent information such as reasons, costs, dates, and numbers.
- Congressional and other stakeholders will be notified in accordance with DOE's notification policy.
- Any payment of enhanced benefits beyond those already approved in the contractors' contract must be approved by DOE-ID, the Office of Legacy Management and the appropriate Program Office.

Changes in the nature or structure of a contractor's work force which may affect 100 or more employees within a 12-month period require the advance approval of DOE. The contractor must provide such information as directed by the Contracting Officer or their designee to enable compliance with Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 and pertinent DOE guidelines and requirements. (See Appendix B – Changes to DOE's Contractor Work Force Restructuring Approval Authority).

Consistent with its obligations under Executive Order 11246 of September 24, 1965, as amended by Executive Order 12086 of October 5, 1978, the DOE will particularly scrutinize any proposed work force restructuring actions involving fifty or more employees in a twelve-month period for possible disparate impact on minorities and other protected classifications of employees.

B. SELF-SELECT VOLUNTARY SEPARATION PROGRAM (VSP)

In order to minimize the number of involuntary separations and mitigate the impact on affected employees, contractors should consider in consultation with DOE-ID the use of a Self-Select Voluntary Separation Program (SS VSP) before consideration is given to conducting an Involuntary Separation Program (ISP) when work force restructuring is necessary. Employees in skills classifications which have been identified as having more employees than needed or whose

voluntary separation would prevent an involuntary separation may be offered the opportunity to volunteer for separation from employment. The contractors will reserve the right to decide whether to accept the applications which the contractors, in their discretion, determine to be in their best interests. Contractor employees who submit applications to participate in a SS VSP will be selected based upon their verified eligibility to participate, as well as continuing mission requirements and other factors. Employees whose applications are accepted as being in the best interest of the employer will receive the same severance pay which they would have received had they in fact been involuntarily separated, together with DOE Displaced Worker Medical Benefits, as described below.

Employees who elect voluntary separation will be required to sign a General Release and Waiver Form (See Appendix A – Voluntary Separation Program General Release and Waiver Form) that will restrict them from employment with DOE or a DOE contractor for the period of one year. However, exceptions may be granted by DOE-ID on a case-by-case basis, in appropriate situations, if doing so is in the best interest of the government. Development of a voluntary separation program will also include actuarial estimates, programmatic cost impacts (both short and long term), and assistance from legal counsel to ensure contractual and other legal requirements have been met.

C. INVOLUNTARY SEPARATION PROGRAM

If it is necessary to conduct an involuntary separation program, efforts will be made to minimize the number of employees involuntarily separated. Non-represented employees will be identified for involuntary separation consistent with applicable personnel policies and on the basis of neutral and objective factors to be determined at the time of the involuntary separation program. Examples of factors that may be relevant are: documented individual performance, seniority, the need for the individual's skills taking into account retraining possibilities, and the number of individuals with the required skills. Critical skills are not determined solely by job classification, but rather by the skills needed to accomplish continuing site missions. The transferability of skills across organizational entities, the impact of attrition, and the diversity of work experience as it relates to the overall strategic direction at the INL may also be considered, as appropriate. Application of these factors to individual employees will be documented. Any selection or evaluation of employees which is associated with any work force restructuring action must comply with all legal requirements. Employees who are not covered by collective-bargaining agreements will receive severance pay in accordance with the contractor's approved personnel policies.

Represented employees covered by collective bargaining agreements will be identified for involuntary separation in accordance with any requirements in their collective bargaining agreements and will receive severance pay as provided by the severance provisions of those agreements.

V. ASSISTANCE AND BENEFIT PROGRAMS

A. RETRAINING PROGRAMS

1. Objectives

DOE believes that retraining is vital to accomplish many of the objectives of this Plan, including: (1) minimizing loss of vital skills and knowledge; (2) minimizing negative impacts to the surrounding communities and affected employees; and (3) minimizing, to the extent practicable, the need for involuntary reductions in the work force.

2. Retraining for Retained Employees

Once impacted individuals have been notified, the contractors may conduct a “closed job fair” specifically for impacted individuals to bid on funded vacancies at the INL. Successful bidders who meet the minimum requirements of an existing opening may be provided retraining to become proficient in their new position.

B. DEPARTMENT OF ENERGY DISPLACED WORKERS MEDICAL BENEFITS PROGRAM

Employees leaving under a voluntary or involuntary separation program, who are not terminated for cause, are eligible for medical coverage under the DOE Displaced Workers Medical Benefits Program (DWMBP), provided they are eligible for medical insurance coverage under the contractor’s plan at the time of separation from employment; and, not eligible for coverage under another plan, e.g., another employer’s group health plan, the contractor’s Retiree Medical Plan, a spouse’s medical plan, or Medicare. During the first year following separation, contractors will continue to pay the employer portion of the medical premium share and the employee will be billed for the employee portion of the applicable monthly premium, depending on the type and level of coverage the employee has at separation. During the second year after termination, the employee will be responsible for one-half of the full Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) rate for this coverage with the contractor paying the remainder. Beginning the third and subsequent years, the separated employee will be responsible for paying the full COBRA rate.

If an employee is eligible for coverage from another employer, or spouse’s employer, but that employer’s coverage contains a pre-existing condition limitation, the employee will be allowed to continue to receive benefits under the DWMBP for the pre-existing condition until the limitation period with the new employer is satisfied. Similarly, the employee may continue coverage under the DWMBP during any waiting period before coverage under a new plan is effective.

Alternatively, terminated employees may elect to continue medical coverage under COBRA. Employees will be provided a separate notice of COBRA benefits.

C. SECTION 3161 HIRING PREFERENCE

1. The Section 3161 Rehiring Preference for Eligible Separated Employees

To the extent practicable, involuntarily separated DOE contractor employees who meet the Section 3161 eligibility requirements set forth in the Plan and who are qualified or qualifiable will receive a hiring preference with respect to vacancies for positions with DOE-ID contractors and contractors at other DOE facilities. Employees will not be considered to have been involuntarily separated for purposes of Section 3161 rehiring preference if they are separated as a result of: (1) termination for cause; (2) voluntary separation from employment at INL, including separation pursuant to a voluntary separation program; (3) the normal completion of a contract; or (4) privatization or other contracting out of work where employees laid off are offered comparable compensation with the new contractor. Additionally, to retain eligibility for the preference, individuals must recertify annually. (See Appendix C - Statement of Interest In Maintaining Section 3161 Employment Eligibility).

Regular employees eligible for the 3161 rehiring preference are individuals employed for an indefinite period with no specified ending date. Such employees include full time and part time employees. To be classified as a qualified, eligible employee under Section 3161, regular employees must have been:

- Employed at a DOE defense nuclear facility on or before September 27, 1991, and
- Employed at the INL in a full-time or part-time regular capacity on the date a work force restructuring notice was given for a specific work force reduction and
- Involuntarily separated (other than for cause).

Intermittent employees eligible for the 3161 rehiring preference are individuals employed in situations that result in repeated periods of employment and unemployment, (e.g., most construction trades). To be qualified as eligible for the Section 3161 rehiring preference, intermittent employees must have been:

- Employed at any DOE defense nuclear facility on or before September 27, 1991, and
- Must have worked at such a facility within the 180 days preceding an applicable work force restructuring notification and
- Must have worked at a DOE defense nuclear facility a total time, including time worked prior to September 27, 1991, equivalent to having worked 40 hours per week from September 27, 1991, through the date of the notification, or have

actually worked the industry standard of full-time from September 27, 1991, through the date of the notification and

- Must have been adversely affected by the announced restructuring at the INL within a reasonable period of time (one year). This includes the interruption of a project before its anticipated completion, or the completion of the assignment or project without prospect for a follow on assignment at the site where the employee had a reasonable expectation of a follow on assignment.

Contractors engaged in operations at the INL will implement the Section 3161 re hiring preference in accordance with the INL's Contractor Preference in Hiring Procedure (See Appendix D, INL Contractor Preference in Hiring Procedures). Websites such as the Job Opportunity Bulletin Board System (JOBBS) will be utilized through the contractors' employment departments and other outplacement sources to assist eligible individuals in locating vacancies within the DOE complex for which they may be qualified. JOBBS can be found at <https://www.jobbs.energy.gov/jobbs/bbs/index.cfm>.

2. Subcontracts and Implementation of the Section 3161 Rehiring Preference

New subcontractors and sub-tier contractors performing under contracts which (with any contract options) exceed \$500,000, except subcontracts for the purchase of supplies, equipment or property, will be required by contract language to accord hiring benefits to displaced employees consistent with this Plan and the requirements of applicable procurement laws.

In order to ensure that hiring benefits requirements are inserted into subcontracts, DOE-ID has developed a model clause to be used as the basis for developing applicable provisions in its solicitations for new contracts and subcontracts at DOE-ID facilities or sites. The model clause is located in 48 CFR (DEAR) 952.226-74. Subcontractors will be required to maintain adequate documentation to support hiring decisions, and insert hiring benefits requirements into their subcontracts.

Subcontractors are not required to reimburse interview or relocation expenses of identified or selected candidates if: (1) the position is one which the subcontractor is normally able to fill locally or from within its own work force; or (2) the subcontractor does not normally reimburse such expenses for the position in question.

D. OUTPLACEMENT SERVICES

To mitigate the impact of INL employees losing jobs, the Idaho Falls Chamber of Commerce, and the Idaho State Job Service have committed to play a major role in assisting employees in finding new positions. They have committed to participate in local job fairs, assist the INL in the maintenance of a virtual job fair internet site, and sponsor periodic regional job fairs for all interested citizens in the surrounding communities in Eastern Idaho. They have committed to provide former employees with access to skill assessments, workshops, resource libraries and

automated job listings. Employees may seek assistance from the state employment service listed below.

Idaho State Job Service
1515 E Lincoln Rd.
Idaho Falls, ID 83401-3653

Contractors themselves will carry out a highly beneficial effort in outplacement assistance, and based on available funding, may obtain the services of QuickHire, a contractor that provides professional outplacement services.

VI. COMMUNITY TRANSITION PROGRAMS

Community assistance can play an important role in successfully achieving the objectives of the Plan, but the affected communities must be motivated and empowered to contribute in an essential way to a successful economic transition. DOE is committed to a process of comprehensive and systematic involvement of all stakeholders in determining policies for community transition. With assistance from DOE-ID, the Regional Development Alliance (RDA) was organized to take significant and aggressive steps to offset the economic impacts of an INL change of mission.

On January 1, 2004, DOE-ID recognized the RDA as the Community Reuse Organization (CRO) for Idaho. The CRO will act as the community's single voice to the DOE for INL "Change of Mission" and economic development issues. The CRO will coordinate its economic development plans with the INL contractor work force restructuring planning process to assure that the work force needs are addressed and represented; and it will initiate job-creating economic development projects that provide career-choice alternatives for impacted employees through the creation, retention and attraction of comparable or higher caliber employment opportunities.

**APPENDIX A – VOLUNTARY SEPARATION PROGRAM
GENERAL RELEASE AND WAIVER FORM**

APPENDIX – A

GENERAL RELEASE AND WAIVER

This Voluntary Separation Program, General Release and Waiver ("Agreement") is entered into by and between _____ ("Employee") and _____ ("Employer"), as part of Employee's voluntary election to terminate employment with the Employer.

IN EXCHANGE FOR THE PROMISES SET FORTH BELOW, THE PARTIES AGREE AS FOLLOWS:

1. Employee voluntarily terminates his or her employment with Employer effective _____. Absent the express written authorization of the U.S. Department of Energy, Employee agrees not to seek employment with, or become employed by the Employer, the Department of Energy, or any other contractor or subcontractor to the Department of Energy on work performed under a contract with the Department of Energy for a period of one (1) year from the date of Employee's separation. This includes, but is not limited to, temporary employment service contracts, general task order assignments, indefinite quantity contracts, basic ordering agreements, and consultant contracts. However, this does not preclude Employee from employment with a company which is providing supplies, equipment, materials, commodities, or services for a Department of Energy facility under a fixed price contract or purchase order **and** whose primary business activities are not in support of such Department of Energy facility.
2. Employee agrees that the Employer has no obligation to reemploy Employee in the future, and Employee waives any recall, rehire, or rehire preference rights such as those that may arise under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993. Employee agrees to perform all steps required by Employer's policies and procedures at the separation of his or her employment.
3. Except as set forth in Paragraph 4 below, Employee, on behalf of himself or herself and any person or entity entitled to sue on Employee's behalf, waives and releases Employer, its parents, subsidiaries, and affiliates, the Department of Energy, and their employees, officers, directors, shareholders, agents, and successors, from any causes of action or claims, whether known or unknown, that arise out of Employee's resignation and separation from employment with Employer and any causes of action or claims that arise out of Employee's employment with Employer, up to and including the date of Employee's resignation, under any federal, state or local law, including, but not limited to, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act of 1990, Title VII of the 1964 Civil Rights Act, the Equal Pay Act, the Family and Medical Leave Act, the Employee Retirement Income Security Act, and the Americans with Disabilities Act, or applicable state or local law. Employee will not assert any claim or

cause of action released under this agreement in any judicial proceeding. Employee waives the right to obtain any legal or equitable relief in, or as the result of, any administrative proceeding, or as the result of any judicial proceeding brought on the employee's behalf.

4. However, Employee does not waive:

- (1) any causes of action or claims that arise out of Employee's employment with Employer, up to and including the date of Employee's separation, that have been asserted in writing and filed with the appropriate agency or court prior to [the date on which this Program was announced],1/
 - (b) any rights or claims that may arise after the date this Agreement is executed,
 - (2) any claims relating to pension or retiree health benefits that currently may be accrued under the Employer's standard retirement program,
 - (3) any claims under applicable state worker's compensation laws,
 - (e) any claims for occupational injuries or illnesses arising from Employee's employment with Employer that are not known or reasonably knowable by the Employee at the time of the execution of this Agreement, or
 - (6) any other rights or claims Employer may not, by law, ask Employee to waive, including, but not limited to, the right to seek judicial determination of the validity of this Agreement under the Older Workers Benefit Protection Act.
5. Notwithstanding anything to the contrary above, the Employee agrees to continue to abide by all obligations and restrictions pertaining to the use and protection of intellectual property as set out in the Employment Agreement signed by the Employee at the beginning of his or her employment at the Idaho National Laboratory or in any other agreements, obligations of confidentiality, or policies pertaining to intellectual property.
6. In exchange for Employee's voluntary separation and execution of this Agreement, Employer will give Employee the consideration and benefits outlined in the description attached to this Agreement. **[The identification number or other designation for the document describing the benefits constituting consideration for this Agreement should be inserted at this point.]**
7. If Employee becomes employed as prohibited in Paragraph 1 or otherwise violates any provision of this Agreement, then, in addition to any other remedies Employer has under this Agreement, Employer may require Employee to repay a portion or all of the payments or other benefits under this Agreement, and Employee agrees to such payment.

8. **Employee has been advised to consider this Agreement and to consult with an attorney of his or her choice, and Employee has had the opportunity to do so. Employee has had the right to consider this Agreement for a period of at least forty-five (45) days prior to entering into this Agreement and has done so, or has expressly requested that his or her application be granted prior to the expiration of the 45 days. Employee has the right to revoke this Agreement for a period of seven (7) days following execution of this Agreement by giving written notice to the local Human Resources representative. If Employee revokes the Agreement, it shall not be effective and enforceable, and Employee will not receive any of the benefits described in Paragraph 6. Employee has read and understands the terms and contents of this Agreement, and Employee freely, voluntarily, and without coercion enters into this Agreement and agrees to be bound by its terms.**
9. This Agreement constitutes the entire understanding and agreement of Employee and Employer and can only be modified in writing agreed to by both parties.
10. Employee has received all of the information required to be disclosed in these circumstances under the Age Discrimination in Employment Act regarding who is covered by the Program, the eligibility factors, the time limits of the Program, the ages and job titles of everyone eligible for the Program, and the ages of ineligible employees in the same job classification or organizational unit.

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS A RELEASE OF KNOWN AND UNKNOWN 2/ CLAIMS AS DESCRIBED IN PARAGRAPH 3, ABOVE, SUBJECT TO THE LIMITATIONS EXPRESSLY SET FORTH IN PARAGRAPH 4.

Agreed to:

Employee/Date

Employer/Date

ADMINISTRATIVE NOTES (to be omitted from waiver distributed to contract employees)

1. The issuing organization should insert at this point a specific date on which the Separation Program involved was first announced. In determining this date, the issuing organization should consider the specificity of information provided to the public in work force restructuring plans issued pursuant to Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, as well as the announcement of the individual separation program involved.
2. Counsel should check to be sure that this aspect of the standard Agreement fully comports with **applicable state or local law**.

**APPENDIX B – CHANGES TO THE DEPARTMENT’S CONTRACTOR WORK
FORCE RESTRUCTURING APPROVAL AUTHORITY**



Department of Energy
Washington, DC 20585

December 20, 2007

MEMORANDUM FOR DISTRIBUTION

FROM: MICHAEL W. OWEN *Michael W. Owen*
DIRECTOR, OFFICE OF LEGACY MANAGEMENT

SUBJECT: Compliance with Established Policies and Guidance for
Contractor Work Force Restructuring

As you know, the Office of Legacy Management (LM) is the Department's focal point for all work force restructuring actions. As a reminder of policies and guidance that should continue to be followed when implementing work force restructuring actions, please reference the *Planning Guidance for Contractor Work Force Restructuring* dated December, 1998, www.LM.doe.gov and *DOE Order 350.1: Contractor Human Resources Management Programs*, www.doe.gov.

One of the primary objectives of Departmental policies and guidance on workforce restructuring is to ensure that contractor work force restructuring actions are conducted in a fiscally responsible manner. It is therefore imperative that site offices make sure the contractors are providing a solid business case for restructurings. All work force restructuring actions should be guided by a demonstrated business case, a commitment to limiting backfilling, and thorough analyses of benefit amounts to be offered as part of separation programs. Consistent with its obligations under Executive Order 11246 of September 24, 1965, as amended by Executive Order 12086 of October 5, 1978, the Department will particularly scrutinize any proposed workforce restructuring actions involving fifty or more employees in a twelve-month period for possible disparate impact on minorities and other protected classifications of employees.

While the aim of the above policies and guidance are to achieve common objectives that provide for effective and efficient contractor work force restructuring planning, they are in no way meant to hinder tailored approaches at each site to meet these objectives. Reflecting these concerns, the approval thresholds remain as follows:

Up to 100 employees	DOE/NNSA notification by contractor
101-200 employees	DOE/NNSA Field Office approval
201-500 employees	LM approval/NNSA Administrator approval, in consultation with LM
501 and above employees	Under Secretary/NNSA Administrator approval



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**APPENDIX C – STATEMENT OF INTEREST IN MAINTAINING SECTION 3161
EMPLOYMENT ELIGIBILITY**

APPENDIX C

STATEMENT OF INTEREST IN MAINTAINING
SECTION 3161 EMPLOYMENT ELIGIBILITY

Name: _____

Social Security Number: _____

Address: _____

Telephone Number: _____

Date of Lay-off resulting from Work Force Restructuring: _____

Company: _____

I hereby request that my name be placed, or retained, on the Section 3161 Preference in Hiring List for the Contractor(s) and be considered for any job opportunities that may arise for which I am qualified at this or any other Department of Energy site. I certify that I have not been terminated for cause from employment by a Department of Energy Contractor or Subcontractor while performing work at a Department of Energy site and that I meet all applicable eligibility requirements.

Signature

Date

Yes, please place my resume on JOBBS.

Signature

Date

I am or am not willing to relocate from the region. _____

I no longer desire that (or am eligible for) my name to be maintained on the Section 3161 Preference in Hiring List and request my name be removed.

Signature

Date

This request will be valid for one year from the above signature unless you provide prior written renewal of the request.

APPENDIX D – INL CONTRACTOR PREFERENCE IN REHIRING PROCEDURES

APPENDIX - D

The Idaho National Laboratory (INL) Contractor Preference in Rehiring Procedures

Purpose

This document describes the procedures to be used to implement preference in rehiring at the INL Site.

Scope

This program applies to all former INL Site contractor and subcontractor employees who were involuntarily separated (except if terminated for cause) and who meet the eligibility standards as stated in this document under “Eligibility”.

Background

Section 3161 of the National Defense Authorization Act of FY 1993 states that, to the extent practicable, involuntarily separated employees at a defense nuclear facility should receive preference in filling vacancies in the work force of the Department of Energy (DOE) and its contractors and subcontractors. The Department has determined that employees must be identified as having helped maintain the Nation’s nuclear deterrent during the Cold War in order to qualify for this preference. All prime contractors and subcontractors (whose contracts equal or exceed \$500,000 in value) should honor the preference.

Eligibility

To the extent practicable, involuntarily separated DOE contractor employees will receive a continuing rehiring preference with respect to vacancies for positions with the Idaho Operations Office (DOE-ID) contractors and at other DOE facilities in accordance with the DOE-ID Work Force Restructuring Plan.

As described in the DOE-ID Work Force Restructuring Plan, openings for positions not filled by internal movement of existing employees will be filled by giving preference in rehiring to eligible, involuntarily separated employees for positions in the following order:

- First preference will be given to former regular, full-time and part-time, INL Site employees of firms who have contracts with DOE-ID or its prime contractors, who meet the 3161 preference eligibility requirements.
- Second preference will be given to former intermittent and temporary (including construction crafts), INL Site employees who meet the 3161 preference eligibility requirements.

- Third preference will be given to former employees from other DOE sites that meet the 3161 preference eligibility requirements.

The rehiring preference will be applied to the extent consistent with veterans' preference, other applicable laws, employment seniority plans, practices of the DOE, and the terms of any binding collective bargaining agreements and affirmative action plans. The rehiring preference does not outweigh other hiring preferences required by statute or Executive Order.

Implementing Procedures

Offers of employment pursuant to rehiring preference will be in writing and remain open for not less than 10 calendar days after the offer is received by each employee, or until the candidate accepts or rejects the offer, whichever period is shorter.

Involuntarily separated contractor employees covered by this Plan must submit written notification annually to their former employer of their continuing eligibility for the rehiring preference and interest in employment. At the time an eligible employee separates from employment, the contractor will advise the employee of the annual notification requirement and will supply the employee with Statement of Interest forms.

Former employees are responsible for notifying their employer in the event that they change their address. Individuals from other DOE sites are responsible for notifying any employer covered by this plan that they are eligible to receive a preference in rehiring when applying for an open position.

A current or former employee who meets the eligibility requirements for 3161 preference-in-rehiring may file an appeal with respect to any decision relating to the application of the rehiring preference to that employee with the relevant contractor's human resources organization.

Loss of Preference-in-Rehiring

The following actions will permanently terminate an employee's rehiring preference:

- Termination for cause from a position with a DOE contractor or subcontractor;
- Voluntary separation for any reason from a DOE contractor or subcontractor subject to Section 3161 (e.g., voluntary quit, voluntary reductions in force (VRIFs), and voluntary retirement);
- The normal completion of a contract;
- Privatization or outsourcing where employees laid off are offered comparable compensation with the new contractor;
- Failure to recertify annually.

Subcontracts and Implementation of the Rehiring Preference

New subcontractors and sub-tier contractors performing at the INL Site or in INL facilities under contracts which (with any contract options) exceed \$500,000, except subcontracts for the purchase of supplies, equipment or property, will be required by contract language to accord rehiring preference to displaced employees consistent with this Plan and the requirements of applicable procurement laws.

In order to ensure that rehiring preference requirements are inserted into subcontracts, the DOE-ID has developed a model clause to be used as the basis for developing applicable provisions in its solicitations for new contracts and subcontracts at DOE-ID facilities or sites. [The model clause is located in 48 CFR (DEAR) 952.226-74 is attached.] Subcontractors will be required to maintain adequate documentation to support hiring decisions, and for inserting rehiring preference requirements into their subcontracts.

Subcontractors are not required to reimburse either interview or relocation expenses of identified or selected candidates if (1) the position is one which the subcontractor is normally able to fill locally or from within its own work force or (2) the subcontractor does not normally reimburse such expenses for the position in question.

Responsibilities

DOE-ID Responsibilities:

- Develop, maintain, and update, as needed, local procedures for the implementation of the Preference-in-Rehiring policy.
- As a part of the contractor performance evaluation, review contractor hiring and procurement records periodically to determine if the procedures are being effectively implemented.
- Provide advice and assistance as needed to help clarify preference-in-rehiring issues.

Prime Contractor's Responsibilities:

- As needed, assists contractor and subcontractor personnel with the identification of employees who may meet the eligibility criteria for the rehiring preference at the time of a projected layoff.
- Establish and maintain current, up-to-date databases for the Job Opportunity Bulletin Board System (JOBBS) and preference-in-rehiring participants. The data bases should include but is not limited to: all new contractor vacancy announcements open for external hire; job categories by Common Occupational Classification System Category (COCS) code, for which each participant has expressed interest; inactive and terminated participants and the reasons for their status (e.g., did not renew annual certification); and the date of most recent annual recertification for active participants.
- Although the onus is on the preference-in-rehire participant to annually recertify, the coordinator should inform active preference eligible participants on an annual basis of the need to recertify annually, and/or provide acknowledgement of the renewed certification within 30 days of receipt from the participant. Note: Displaced workers who have been fully

re-employed with a DOE contractor/subcontractor do not have to recertify unless they are subsequently laid off again.

- Hard copies of the following documents should be retained for a least one year after the preference-in-hire eligibility is permanently terminated:
 - Initial certifications of eligibility, and
 - Recertification forms:
 - The current year's recertification form for active preference candidates
 - The most recent recertification form for those who have been fully re-employed with a DOE contractor and maintain their eligibility as an inactive (but not permanently terminated) participant.
- Assure subcontractor compliance with preference-in-rehiring policy.
- Review cases in which preference-in-hire candidates contend that their preference benefit was not properly applied.
- In Requests for Proposals, the contractor must include criteria for informing potential bidders of contract requirements for compliance with the National Defense Authorization Act, Section 3161, Preferential Rehiring and related contractor procedures, including preference-in-hire reporting requirements.
- Maintain updated local preference-in-hire procedures and distribute to appropriate contractor Human Resources and Contracts/Procurement staff, subcontractors, union representatives, and active preference-in-hire participants.
- Identify representatives of the company who will determine and certify the displaced employee's eligibility for the preference-in-hire benefit.
- When laying off employees, the contractor shall:
 - Prior to the termination date, explain to all employees to be laid off the preference-in-hire benefit, when it does and does not apply, the eligibility criteria, the need to recertify, and the actions that terminate the preference. Additionally, provide a copy of this procedure in their termination packet.
 - On or about the last day of employment, assist the employees in completing the preference application form; provide written notification to each employee who applied for the preference as to their eligibility determination; and obtain signed assurance that the eligible participant understands their obligation to recertify annually to maintain this benefit.
- When the contractor fills jobs by external hire:
 - List all job vacancies not filled with internal candidates or recalls governed by a collective bargaining agreement (CBA), with JOBBS. Job vacancy announcements should clearly identify the qualifications required for the job.
 - Provide training materials for eligibility tests to preference-in-hire candidates as are provided to current employees.
 - Verify a displaced employee's status for preference.
 - Follow the order of precedence for giving the preference in hire benefit as stated earlier in this document.
 - If the preference candidate is not selected, the hiring manager must document the reason for nonselection. The company Human Resource Director, or his/her designee, must review and approve the hiring manager's decision to not select a preference-in-hire candidate.

Employee Responsibilities

- Verify their status with their employer's Human Resource Department and fill out the preference-in-rehiring form before leaving the payroll. All forms must be signed by the certifying official verifying eligibility for the preference.
- Provide accurate address and telephone number before leaving employment.
- Retain a copy of the Preference form for their record. It is the responsibility of each employee to take a signed and verified copy of the preference to the hiring employer as evidence of the preference.
- Inform potential employers of their preference eligibility and interest by annually submitting a copy of the certified form.