



Department of Energy

Washington, DC 20585

October 15, 2015

MEMORANDUM FOR THE SECRETARY

FROM:

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SENIOR ADVISOR TO THE SECRETARY

SUBJECT:

DOE Policy on Contractor Pension Plan Participation

ISSUE: Whether to establish a Secretarial Policy on Contractor Defined Benefit Pension Plans.

BACKGROUND: In April 2015, at a meeting to discuss the status of labor negotiations at Los Alamos between the International Guards Union of America and SOC-Los Alamos and at Pantex between the Metal Trades Council and Consolidated Nuclear Security, LLC (CNS), you have indicated a desire to reduce the conflict over pension and health insurance plans that has sometimes arisen, particularly in the course of transition from one contractor to another.

Attached is a proposed Secretarial Policy Statement on Contractor Defined Benefit Pension Plans that would clarify for all DOE personnel, contractors, contractor employees, and union representatives your expectations on how DOE would manage contractor pension benefit requirements in the procurement process, during contractor transitions, and in approving parameters for contractor collective bargaining.

Essentially, this policy statement would codify the practice that has generally been followed, with a notable exception, and was known informally as "if you're in, you're in." Under this practice, new contractors have been required to become sponsors of the existing defined benefit (DB) pension plans (or substantially comparable plans if continuation of the plans was not practicable), when new contractors assumed management of a follow-on DOE contract in those situations where DOE has the right to direct the outgoing contractor to transfer sponsorship of its pension plan to another contractor. Under the "if you're in, you're in" practice, plan amendments were permitted, subject to Contracting Officer approval and Headquarters review. Incumbent contractor employees who were participants in the outgoing contractor's DB plan would continue to accrue credit for service in the DB plan. Under the proposed policy, nothing would prevent DB plans from being closed to new hires and for those new hires to become participants in Defined Contribution (DC) plans. Thus, the policy does not prevent transition from DB to DC pension plans, but it does manage that transition in a way that meets employees' expectations.



I believe that issuing this policy would greatly diminish the anxiety over this issue on the part of our contractor workforce.

Further, I would advise that you announce the issuance of this policy at the upcoming Union Leadership Roundtable on September 17.

OPTIONS:

Option #1: Issue the original proposed policy.

Arguments Pro: Issuing this policy will clarify that long-term contractor employees who are participating in the existing DB plans do not have to worry about having their expectations disrupted. It will reduce the anxiety that exists across the DOE complex that contractor retirement plans will be short-circuited when a new contractor is awarded an M&O or other significant contract.

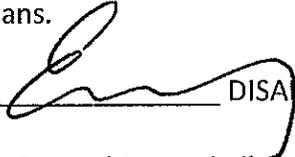
Arguments Against: Issuing such a policy could reduce the financial opportunity to reduce pension costs and volatility in new DOE contracts. Some volatility reduction and cost benefit may be achieved by moving to defined contribution plans and terminating future benefit accruals for current employees participating in the DB plans.

APPROVE: _____ DISAPPROVE: _____ DATE: _____

Option #2: Issue the original proposed policy with a provision permitting plan amendments.

Arguments Pro: The same as Option #1. However, Option #2 allows for the flexibility to amend defined pension plans in the event of unforeseen circumstances while specifically requiring protection of longer service employees eligible for or nearing retirement. This flexibility reflects the earlier "if you're in, you're in" practice and is consistent with the SEAB recommendations before you.

Arguments Against: The same as Option #1. While more flexible, Option #2 is not as clear cut as Option #1 in unconditionally protecting incumbent contractor employee pension plans.

APPROVE:  _____ DISAPPROVE: _____ DATE: OCT 15 2015

Option #3: Do nothing and allow the existing practices to continue.

Arguments Pro: Since 2006, at least one significant Departmental contract has not explicitly required that the incumbent contractor work force already participating in the contractor site DB plan be allowed to continue to participate and accrue credit for

service under those plans. Under DB plans, the sponsoring contractor assumes the risk of investing funds to provide the promised benefits with the reasonable costs of those benefits subject to reimbursement by the Department. Where contractor employees are covered by DC plans instead of DB plans, the contractor – and hence the Department – is not exposed to that investment risk and may have the opportunity to reduce costs.

Arguments Against: The general movement by US industry away from DB plans and the failure to require a recently-awarded contractor to continue the existing DB plan has raised significant concerns by potentially affected contractor employees and unnecessarily complicated the process of developing and competing new contracts.

APPROVE: _____ DISAPPROVE: _____ DATE: _____

RECOMMENDATION: I recommend that you issue the new proposed policy on continuity of contractor defined benefit pension plans as described in Option #2 and announce this policy at the upcoming Labor Roundtable on September 17, 2015.

Attachment