

(h) Maintenance of security**(1) In general**

With respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines relating to the authority of the Department of Energy's contractors (including any Federal agency, or private entity operating a gaseous diffusion plant under a contract or lease with the Department of Energy) and any subcontractor (at any tier) to carry firearms and make arrests in providing security at Federal installations, issued under section 2201(k) of this title shall require, at a minimum, the presence of all security police officers carrying sidearms at all times to ensure maintenance of security at the gaseous diffusion plants (whether a gaseous diffusion plant is operated directly by a Federal agency or by a private entity under a contract or lease with a Federal agency).

(2) Funding

(A) The costs of arming and providing arrest authority to the security police officers required under paragraph (1) shall be paid as follows:

(i) the Department of Energy (the "Department") shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are: (I) employees of the Department or the contractor or subcontractors of the Department; or (II) employees of the private entity leasing the gaseous diffusion plant who perform work on behalf of the Department (including employees of a contractor or subcontractor of the private entity); and

(ii) the private entity leasing the gaseous diffusion plant shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are employees of the private entity (including employees of a contractor or subcontractor) other than those employees who perform work for the Department.

(B) Neither the private entity leasing the gaseous diffusion plant nor the Department shall reduce its payments under any contract or lease or take other action to offset its share of the costs referred to in subparagraph (A), and the Department shall not reimburse the private entity for the entity's share of these costs.

(C) Nothing in this subsection shall alter the Department's responsibilities to pay the safety, safeguards and security costs associated with the Department's highly enriched uranium activities.

(Pub. L. 104-134, title III, §3107, Apr. 26, 1996, 110 Stat. 1321-338; Pub. L. 105-62, title V, §511, Oct. 13, 1997, 111 Stat. 1341; Pub. L. 105-245, title III, §310, Oct. 7, 1998, 112 Stat. 1853.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (c), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to this chapter (§2011 et seq.). For complete

classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105-245 substituted "all security police officers" for "an adequate number of security guards" in par. (1) and added par. (2).

1997—Subsec. (h). Pub. L. 105-62 added subsec. (h).

§ 2297h-6. Transfer of contracts**(a) Transfer of contracts**

Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 2297c(b) of this title, or

(2) entered into by the Corporation before the privatization date.

(b) Nontransferable power contracts

The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) Effect of transfer

(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and

the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) Pricing

The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

(Pub. L. 104-134, title III, §3108, Apr. 26, 1996, 110 Stat. 1321-339.)

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h-7. Liabilities

(a) Liability of United States

(1) Except as otherwise provided in this subchapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) Liability of Corporation

Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 2297h-6 of this title or any other action the Corporation is required to take under this subchapter.

(c) Liability of private corporation

Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) Liability of officers and directors

(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

(Pub. L. 104-134, title III, §3109, Apr. 26, 1996, 110 Stat. 1321-339.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (d)(2), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (d)(2), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

CODIFICATION

Section was enacted as part of the USEC Privatization Act and also as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

§ 2297h-8. Employee protections

(a) Contractor employees

(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering em-