

**MEMORANDUM OF AGREEMENT (MOA)
BETWEEN THE
DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF ENERGY
GOVERNING DEPARTMENT OF DEFENSE FUNDED WORK PERFORMED AT THE
DEPARTMENT OF ENERGY LABORATORIES AND FACILITIES**

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to define the working relationship between the Department of Defense (DOD) and the Department of Energy (DOE) for the conduct of work undertaken in support of and directly funded by the DOD under the DOE Work for Others (WFO) program.

II. BACKGROUND

A large percentage of the U.S. research support relating to the defense sciences comes from funding originating within the DOD and the effectiveness of DOD's system for supporting this research and development is to a great degree the basis for their preeminence in related scientific areas. For many years DOE laboratories and facilities, through the DOE Work for Others (WFO) program, have undertaken research and development projects performed for and funded by the DOD. These facilities are managed and operated for DOE by universities, industrial concerns, and non-profit organizations under terms of individual contracts, as defined in Federal Acquisition Regulation (FAR) Subpart 17.6. All DOD funded work at the DOE laboratories and facilities will be subject to the terms and conditions of these contracts.

The mechanism used by DOD to place work at a DOE laboratory or facility is through an Interagency Agreement (IAA) and is managed under a program called Work for Others (WFO). The DOE WFO program requirements and practices are established to ensure compliance with Federal laws and regulations, and are promulgated in the Department of Energy Acquisition Regulations (DEAR) and further defined in DOE Order 481.1C, WORK FOR OTHERS (NON-DEPARTMENT OF ENERGY FUNDED WORK).

III. POLICY

The ability of DOD to have access to the unique facilities and special expertise of the DOE laboratories and facilities greatly assists DOD in meeting essential mission requirements and specific program goals and objectives. In addition, DOD WFO funding is vital to and clearly compliments and enhances the Department's own defense related and supporting science research programs at DOE laboratories and facilities.

This MOA is being established to promote and protect this longstanding, productive, and mutually beneficial relationship between DOD and DOE which has allowed each agency to more effectively meet their agency specific and national research mission and objectives.

IV. ADMINISTRATION

Each agency shall administer all WFO projects performed at the DOE laboratories and facilities directly funded by the DOD in accordance with the applicable statutes and regulations, and their standard policies and procedures, except as such policies and procedures may be amended by the provisions set forth below:

- A. DOD will provide to DOE a copy of their signed Economy Act Determinations and Findings (D&F) or a Best Interest Determination for the specific WFO project. This will become a permanent part of the DOE project file.
- B. For each WFO project, DOD will define any special or unique information requirements e.g., reporting. DOE will include associated costs in the DOE cost estimate for the requirements.
- C. DOE will ensure that adequate pricing visibility is provided to support DOD's assessment of cost/price reasonableness and apply standard laboratory/facility rates used in pricing both DOE and non-DOE work. DOE will provide a breakout of direct costs while indirect costs will be provided at the summary dollar level only. The following is general list of standard cost elements to be utilized when providing DOD a WFO project proposal/cost estimate. While the cost estimate formats may vary, this level of cost detail is expected in order to provide DOD with sufficient information to ensure DOD has a thorough understanding of the proposed costs and that adequate funding has been secured for the project.

Cost Data Elements for each Project

Labor (including labor hours and skill mix)

Materials (including any equipment)

Travel

Other Direct Costs

Laboratory Directed Research and Development (if applicable)

Overhead

Federal Administrative Charge (if applicable)

Using this information, DOD will assess each project's cost proposal, and will ensure each DOD project file contains documentation indicating completion of the DOD assessment of cost/price reasonableness. DOD funding of a project will represent acceptance of cost/price reasonableness of a WFO project.

D. DOD recognizes that DOE operates on a fully reimbursable basis, that standard laboratory/facility rates are not negotiable, and that estimates are subject to change. Changes to cost estimates will be reported and managed through project reporting requirements established for each project by the DOD technical project manager.

E. DOD and DOE agree that oversight roles and requirements will be defined for each WFO project. At a minimum, DOD is responsible for technical project management and will identify in the interagency agreement a technical project manager/COR for each project. This DOD official shall monitor technical, cost, and schedule performance of the project, and notify the DOE contracting officer of any questioned costs or performance issues. DOD will provide written notification of any changes to project specific designated technical project managers. DOE is responsible for monitoring the performance of the contractor as a whole, and for issue resolution, as needed. This will be accomplished by the DOE Contracting Officer responsible for the DOE laboratory/facility.

F. DOD officials will have access to DOE laboratories and facilities as necessary to review and monitor project scope, scheduling, and funding. DOD will request approval for laboratory/facility access from the WFO project Principal Investigator (PI). The WFO PI shall notify the DOE contracting officer of pending on-site visits.

G. DOE and DOD will jointly develop standardized reporting requirements outside of FPDS-NG and DOE will commence standardized quarterly data reporting to DOD in support of Technical Project Manager functions.

H. DOD and DOE will conduct regularly scheduled meetings at the action officer and senior level to ensure emerging IA issues are addressed.

V. FUNDING

A. The details of the levels and support to be furnished by DOD will be specified in each WFO agreement. This MOA shall not be used or construed to obligate or commit funds or serve as the basis for the transfer of funds. All DOE provided cost data shall be considered business sensitive. DOE will be responsible for marking any other data as such when appropriate.

B. Project-specific information will normally be provided by the individual project Principal Investigators (PI). For more global information, involving multiple DOE facilities, DOD should make such a request through the DOE or NNSA Senior Procurement Executive, as appropriate.

C. In accordance with DOE policy, DOE will exercise funds control at the WFO project level. Upon notification by a DOD technical project manager, DOE will ensure funds provided by DOD are de-obligated and returned to DOD in a timely manner

VI. AUDIT

In accordance with standard DOE practice, the DOE IG will be responsible for DOE contract audits related to DOD work at the DOE laboratories/facilities, and any DOE IG audit findings will be resolved by DOE with the necessary coordination with DOD. Upon request by DOD, in coordination with the DOE-IG, the DOD-IG will be permitted to access DOE laboratories/facilities to evaluate DOD projects.

VII. RESPONSIBILITIES

As partners, DOD and DOE recognize the need to collaborate on Interagency Acquisition requirements. As individual organizations, each has specific responsibilities in all parts of this plan to ensure that all acquisitions are compliant with statute, regulation and applicable policy. Collectively, the two organizations have the ability and expertise to ensure that all contracting actions are done properly, in compliance with all applicable law, regulation and policy and are conducted in the best interests of the taxpayers. DOE values greatly the support that it provides to DOD and the tremendous additional leverage that DOD requirements add to DOE capabilities. DOD is committed to sound acquisition planning and to providing DOE with clear, specific, definite and certain directions regarding its requirements.

Attached is a Corrective Action Plan that more specifically addresses DOD's and DOE's respective roles and responsibilities in the process. DOD and DOE will collaborate on all action plan items. It is expected that this chart will be modified and updated over time but its changes do not impact the general agreement herein.

Both DOD and DOE will designate an office/division to function as the agency's point of contact to resolve particular problems or policy matters pertaining to DOD WFO at the DOE laboratories and facilities. These points of contact will consult with and obtain concurrence of affected elements within their organizations in accordance with internal requirements and responsibilities. DOD and DOE have designated the following office/division to serve this purpose:

DOD:

Office of the Under Secretary of Defense
Acquisition, Technology and Logistics
Defense Procurement and
Acquisition Policy/Contract Policy and
International Contracting

DOE:

Office of Management
Office of Procurement and Assistance
Management

NNSA:

National Nuclear Security Administration
Office of Acquisition and Supply
Management

VII. AUTHORITY

This MOA is carried out within the statutory guidelines in the Atomic Energy Act of 1954, as amended, the Economy Act, as amended, and related statutes.

VIII. EFFECTIVE DATE

This MOA shall become effective upon the latter date of the signature of the Director, Defense Procurement and Acquisition Policy, the DOE Senior Procurement Executive of the Office of Procurement Assistance and Management, and the NNSA Senior Procurement Executive of the Office of Acquisition and Supply Management. It shall remain in effect until amended or terminated by either party.

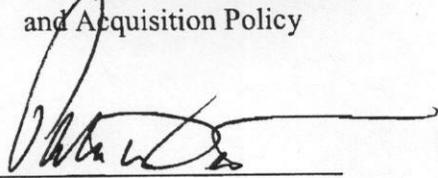
IX. AMENDMENTS

This MOA may be modified or amended only by mutual written agreement between DOD and DOE.



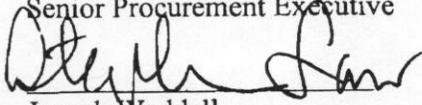
Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

9/17/2003
Date



Patrick M. Ferraro
Acting Director
Office of Procurement and
Assistance Management
Senior Procurement Executive

9-16-10
Date



for Joseph Waddell
Director
Office of Acquisition and Supply Management
National Nuclear Security Administration
Senior Procurement Executive

9-16-10
Date

Attachment A: Corrective Action Plan

Action Items	Planned Execution Date
The Department of Energy (DOE) and the Department of Defense (DOD) will execute a Memorandum of Agreement (MOA) that among other actions, establishes roles and responsibilities when the DOD accesses DOE-owned research, development and production facilities through Interagency Agreements.	September 2010
The Director, Defense Procurement and Acquisition Policy will issue a comprehensive policy memorandum to require a DOD Contracting Officer to review any funding increment in excess of \$100,000 to be sent to the DOE for performance by a DOE laboratory or facility.	September 2010
DOE and DOD will jointly develop standardized reporting requirements outside of FPDS-NG and DOE will commence standardized quarterly data reporting to DOD in support of Technical Project Manager functions as defined in the MOA.	Reporting requirements standardized: November 2010. Reporting commences: May 2011
DOE and DOD will collaborate on all emerging Interagency Acquisition issues and meet, at the Action Officer level, each quarter to evaluate and address the terms of the MOA and the effectiveness and currency of the Corrective Action Plan. Additional agency meetings will be held at the request of either agency. Senior leaders to meet semi-annually.	Commence September 2010
DOE and DOD will establish standardized costs elements to ensure sufficient pricing information is provided to DOD for review/analysis prior to sending funds to DOE. DOE will disseminate the standard elements to all DOE laboratories and other facilities for use when providing DOD with costs estimates.	September 2010
DOD will issue a policy memo that requires any technical project manager performing oversight, including invoice review, on a DOD requirement being performed at a DOE laboratory or facility to meet stated Contracting Officer Representative (COR) training requirements excluding contingency contracting requirements.	September 2010
DOD and DOE will assess whether or not “directed purchases”, as recommended in DODIG audit Report No. 2009-D000CF, is desirable, feasible and implementable. DOD and DOE will report their findings to the DODIG by March 31, 2011.	March 31, 2011