

Approved: 5-31-2011

**SUBJECT: USE OF MANAGEMENT AND OPERATING OR OTHER FACILITY  
MANAGEMENT CONTRACTOR EMPLOYEES FOR SERVICES TO DOE IN THE  
WASHINGTON, D.C. AREA**

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1. **OBJECTIVE.** To establish policies and procedures for management of Department of Energy (DOE), including National Nuclear Security Administration (NNSA), management and operating (M&O) and other facility management contractor employees assigned to the Washington, D.C. area.
2. **CANCELLATION.** DOE O 350.2A, *Use of Facility Contractor Employees for Services to DOE in the Washington, D.C., Area*, dated 10-29-03. Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.
3. **APPLICABILITY.**
  - a. **Departmental Applicability.** The provisions of this Order apply to all Departmental elements, except for those elements specifically exempted in paragraph 3c.
  - b. **DOE Contractors.**
    - (1) The Contractor Requirements Document (CRD), Attachment 1, sets forth the requirements of this Order that apply to site/facility management contracts that include the CRD.
    - (2) The CRD must be included in site/facility management contracts where the contractor employees may be assigned to the Washington, D.C., area for more than 30 continuous calendar days.
    - (3) This Order does not apply to other than site/facility management contracts. Any application of any requirements of this Order to other than site/facility management contracts will be communicated separately from this Order.
  - c. **Equivalencies and Exemptions.**
    - (1) **Exemption.** This Order does not apply to the Power Marketing Administrations.

- (2) Exemption. This Order also does not apply to assignments under Intergovernmental Personnel Act Mobility Program Agreements, Work-for-Others agreements, or other assignments as may be exempted by the Director, Office of Management, or the Associate Administrator for Management and Administration, NNSA.
- (3) Equivalent. In accordance with the responsibilities and authorities assigned by Executive Order (E.O.) 12344, codified at 50 U.S.C. 2406 and 2511, and to ensure consistency throughout 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 Order for activities under the Director's cognizance, as deemed appropriate.

#### 4. REQUIREMENTS.

- a. DOE Headquarters program or site offices must concur/approve and submit copies of annual critical skills staffing plans consistent with the requirements of this Order prior to approving any assignment of M&O or other facility management contractors to the Washington, D.C., area.
- b. Copies of approved staffing plans shall be provided by August 1, for the upcoming fiscal year to the Director, Office of Management (MA) or Associate Administrator for Management and Administration, NNSA, (AAMA) as appropriate.
- c. The head of the contracting activity (HCA) must concur and obtain the cognizant Secretarial Officer's (CSO's) approval in site and contractor staffing plans prior to providing a copy of the approved staffing plan to MA or AAMA.
- d. Headquarters annual staffing plans must be approved by the head of the requesting DOE Headquarters Program office prior to providing a copy to MA or AAMA.
- e. Staffing plans must identify the total number of active assignments and requested positions for the upcoming fiscal year, and state the assignments to satisfy the requirements of this Order.
- f. Staffing plans at a minimum must provide the following information for each proposed assignment meeting the conditions described in paragraph 4.h:
  - (1) assignee name, job description and required skills to be provided;
  - (2) assignment total estimated monthly cost (including all indirect costs);
  - (3) percentage of time charged to each sponsoring Headquarters program organization. If an assignment supports more than one program office, the plan must indicate the percentage of support provided to each program

with the aggregate total equaling 100 percent. For part time assignments only the percentage of time being charged to DOE must be reported;

- (4) facility providing the contractor employee;
  - (5) estimated start and end dates for each contractor employee assignment (NOTE: If an assignment extends beyond a fiscal year the start date should not be changed but the revised end date should be indicated);
  - (6) site location for each assignment (government or contractor space); and
  - (7) program being supported (e.g., basic energy science).
- g. If the HCA or designee determines that a contractor may establish a Washington, D.C., staff office, the HCA or designee, will concur and submit for the CSO's approval, a contractor administrative/overhead staffing plan. Copies of the approved plan shall be provided to MA by August 1.
- h. Sponsors must determine in writing that individual assignments contained in Annual Staffing Plans or those proposed during the fiscal year meet the following conditions.
- (1) Technical expertise or experience critical to the program is neither available within the program or site office and costs are reasonable when compared to other types of contracts (e.g., support service contracts).
  - (2) Tasks must be performed in the Washington, D.C., area.
  - (3) The expertise is within the contract scope of work of the contract under which the assignee is employed.
  - (4) Assessment and reassessment documentation meets information standards (Appendix A) and is maintained by the sponsoring organization.
  - (5) Reimbursements are reasonable and will be based on actual costs or a reduced per diem rate.
  - (6) Contractor staff office assignment reimbursements are limited to salary, benefits, business travel, and if applicable, a one-time assignee relocation.
  - (7) Assignments are approved annually and limited to three years unless the head of the sponsoring organization approves an extension beyond the three-year limit. Approval authority may not be delegated.
  - (8) Assignments greater than three years in duration are considered relocations, and reimbursements in excess of salary and benefits have ceased. Assignment duration has been determined on the aggregate number of calendar days from the start date. (NOTE: One-time relocation

costs and salary adjustment on an exception basis are allowable with the written approval by the head of the sponsoring organization.)

- (9) For employees completing an assignment and approved for a new assignment that results being continuously assigned to the Washington D.C., area, the duration is based on the original start date of the first assignment. Upon reaching the three-year limit, adjustments to reimbursements must occur consistent with relocation designation. If a break of one year or more occurs between assignments duration should be calculated using the newly approved start date.
- i. The Director, MA, will maintain copies of approved annual staffing plans.
- j. Sponsoring offices must remain within annual allocations. Approved assignments—full or part-time—account for use of one allocated position.
- k. During the fiscal year waivers from an annual allocation may be granted on a case by case basis. DOE HCA concurrence and CSO approval are required for contractor staff office waivers. Heads of Program Offices must approve waivers from their approved staffing plans. Copies of approved waiver requests shall be provided to MA. For NNSA organizations, AAMA approval is required prior to providing a copy to MA. Waivers shall remain in effect until the end of the fiscal year. All waiver requests must include the following information:
  - (1) justification for request including a listing of critical task(s) that cannot be performed by current assignments,
  - (2) start and end dates for assignments requested by the waiver, and
  - (3) physical location of the facility contractor employee assignment(s).
- l. Contractor employee assignments must not:
  - (1) compensate for reductions in support service contracting;
  - (2) provide administrative support (e.g. clerical or paraprofessional) within Federal facilities or for Federal employees;
  - (3) perform inherently governmental functions, including directly supervising Federal employees and fiscal or policy decision making;
  - (4) perform contractor business development or lobbying;
  - (5) adversely affect the contractor's mission or otherwise adversely affect the contractor's ability to meet contract commitments;
  - (6) extend support beyond the completion of the work assignments; or

- (7) perform any function that may be construed as a personal or organizational conflict of interest as referenced in DEAR Subpart 909.5 or 970.0905 and defined in 952.209-72.
- m. Sponsoring organizations must review and provide notification to the Office of Procurement and Assistance Management by October 15, that their assignment records for the previous fiscal year in Department's Management and Tracking System (DMATS) database are accurate.
- n. Sponsoring organizations will work with contractors to conduct an OCI analysis for each assignment and ensure amendments occur when a significant change or addition occurs to the assignees' work.

5. RESPONSIBILITIES.

- a. Office of Management, and Associate Administrator for Management and Administration, NNSA.
  - (1) Establish DOE policies for assigning contractor employees to the Washington D.C., area.
  - (2) Maintain copies of approved staffing plans.
  - (3) Maintain an inventory of assigned contractor employees using DMATS.
  - (4) Maintain copies of approved waivers to staffing plan allocations.
  - (5) Prepare Congressional reports in coordination with program and site offices.
  - (4) Coordinate with the offices of the Chief Financial Officer and Congressional and Intergovernmental Affairs on any reports to Congress.
  - (8) Approve requests for waiver from the requirements of this Order.
- b. DOE Headquarters Program Offices/Cognizant Secretarial Officers. In cases where a DOE Headquarters program organization is designated as a CSO, the following responsibilities also apply to sites under the CSO's purview: .
  - (1) Establish procedures for approval of assignments that at a minimum, meet the requirements of this Order and DOE's Work Authorization Process.
  - (2) Ensure annual written determinations are completed for proposed and ongoing assignments consistent with the requirements of this Order.
  - (3) Approve Headquarters Program and if a designated CSO, contractor administrative/overhead staffing plans for the upcoming fiscal year by August 1, and provide copies of approved plans to MA

- (4) Manage assignment levels consistent with approved annual allocation levels.
- (5) Approve and provide copies to MA of temporary waivers to allocations for organizations under their purview..
- (6) Maintain inventories of active sponsored assignments in DMATS.
- (7) Notify contracting officers when the CRD to this Order must be included in an M&O or facility management contract.
- (8) Review and approve all site office and contractor administrative/overhead staffing plans for sites for which CSO responsibility has been assigned.
- (9) Establish procedures for meeting OCI analysis requirements in 4.n.

c. DOE Heads of Contracting Activities.

- (1) Approve and submit by July 1 annual site office staffing plans for the CSO's approval and provide copies of the plan to MA .
- (2) Concur in the support plan for administrative/overhead staff for the Washington, D.C., area prior to submitting to the CSO for approval.
- (3) Maintain an inventory of current contractor assignments accounted under DOE approved staffing allocation using DMATS.
- (4) Review contractors' use of government and contractor leased space to ensure that Government-owned or leased space is used to the maximum extent practicable.
- (5) Modify contracts to include the CRD to this Order prior to approving any contractor assignments under this order.
- (6) Provide written approval designating alternative local senior management officials to approve staffing plans or individual assignments.

d. Assignment Sponsors.

- (1) Prepare individual assignment packages consistent with this Order including the minimum information standards in Appendix A.
- (2) Obtain required concurrences as prescribed in this Order.
- (3) Manage assignment numbers within fiscal year allocations.

- (4) Ensure changes to existing or approval of new assignments are entered in the DMATS database within 30 days of when such changes become effective. Failure to include a contractor assignment into DMATS will render any costs associated with that assignment to be unallowable under the terms and conditions of the contract.
  - (5) Maintain review and approval documentation for all assignments sponsored under their Annual Staffing Plan.
6. REFERENCE. DOE O 412.1A, *Work Authorization System*, dated 4-21-05, established the work authorization and control process for work performed by site management contractors for DOE.
7. DEFINITIONS.
  - a. M&O or other facility management contractor employee (referred to in this Order as “contractor”) is any employee of an M&O or other facility contractor responsible for managing a Department of Energy (DOE) owned facility, such as a national laboratory or production complex.
  - b. M&O and other facility management contractor assignments are assignments of contractor employees to the Washington, D.C., area for more than 30 continuous calendar days where a contractor employee provides a Headquarters program or site office with technical expertise and experience in the Washington, D.C., area, that is critical to that office’s operation or program(s) or provides administrative/overhead support to a contractor’s Washington, D.C., staff office.
  - c. Annual program or site office critical skills staffing plans are plans prepared by DOE program or site offices that list the proposed number, types and costs of contractor employees who will provide direct support to program organizations sponsoring the assignments during the upcoming fiscal year.
  - d. Support plan for M&O or other facility contractors administrative/overhead staffing plan for the Washington D.C., area are plans developed and submitted by the contractor each fiscal year proposing new or continued assignments of contractor staff employees assigned to performing work directly for the contractor’s Washington D.C., office.
  - e. Assignment sponsors are organizations that review, approve and fund contractor assignments to the Washington D.C., area consistent with the requirements of this order including management of such assignments consistent with the sponsors approved Annual Staffing Plan.

8. CONTACT. For information about this Order, contact the Office of Procurement and Assistance Management, Contract Administration Division, at 202-287-1507.

BY ORDER OF THE SECRETARY OF ENERGY:



DANIEL B. PONEMAN  
Deputy Secretary

## **APPENDIX A ASSIGNMENT INFORMATION STANDARDS**

The following information must be included in all staffing plan or individual request submissions.

1. The employee's full name, employer (contractor) and proposed job classification.
2. Start and end dates of the assignment (use the original start date for continuations).
3. Statement of work the employee is being assigned to perform.
4. Description of how the proposed work relates to the facility contract statement of work.
5. A description why the work cannot be performed at the employee's regular duty station.
6. Assessment of program impacts if the assignment is not approved.
7. Determination why alternative sources such as those within program, site offices or through a support service contract are not practicable or appropriate.
8. The basis used for determining that assignment costs are reasonable.
9. List the program component the employee will provide services to and the physical location where the employee will be assigned.
10. Provide the name, organizational code, and phone number of the Federal employee who will be responsible for ensuring assignee attendance and performance of work and ensuring the assignment conforms to this order.
11. Confirmation that the assignment is not to replace a support service contractor.
12. Confirmation that approval of this employee assignment will not result in your organization exceeding its annual assignment allocation.
13. Determination that costs have been limited to salary and benefits and, if applicable, a one-time charge for relocation for assignments to contractor Washington D.C. offices.
14. Determination that total monthly and/or annualized cost for the assignment includes all costs for the assignment (salary, benefits, per-diem, business travel, etc.).
15. Determination that cost reimbursement is consistent with requirements in this order.
16. If estimated costs (other than salary and benefits) exceed per-diem rate for the year explain what costs elements cause this to happen and what is the rationale being used to approve exceeding the per-diem rate (if applicable).

17. What are the detailed costs elements for this assignment? Including but not limited to:
- a. salary and benefits (fully burdened, indicate the percentage of indirect costs burden);
  - b. personal effects shipment;
  - c. monthly and annual housing costs;
  - d. work-related travel costs (number of trips, estimated cost per trip, destination and purpose);
  - e. personal travel costs for returning to permanent duty station (include the annual number and frequency of these trips and the costs estimated for each trip); or
  - f. other costs (including, but not necessarily limited to per-diem, etc.).

NOTE: An assignment of greater than three years in duration will be considered a relocation, and assignment reimbursements will cease when the fiscal year in which the three year limit is completed, at which point the revised policy will be applied or the assignee must return to his/her former duty station. (NOTE: Reduced one time relocation costs and salary adjustment will be permitted with written approval from the head of the sponsoring organization.)

18. When applicable a description why an extension is critical and the significant benefit gained by the sponsoring office and the facility.
19. When applicable the rationale supporting the head of the sponsoring organization's approval for assignments beyond the 3-year term limitation.

## **CONTRACTOR REQUIREMENTS DOCUMENT**

### ***DOE O 350.2B, USE OF M&O OR OTHER FACILITY MANAGEMENT CONTRACTOR EMPLOYEES FOR SERVICES TO DOE IN THE WASHINGTON D.C., AREA***

Regardless of the performer of the work, the contractor is responsible for complying with the requirements of this CRD.

1. Contractor employees providing services subject to the provisions of this CRD must be listed in the Departments' Management and Tracking System (DMATS) database of contractor assignments to the Washington, D.C., area. Failure of an assignee's sponsoring organization to list an employee in the database will cause any costs associated with that employee (e.g., salary and benefits) to be deemed unallowable under the terms and conditions of the contract.
2. Contractor organizations may designate a point-of-contact (POC) and request read-only access to the DMATS at <http://hr5lndom1.pr.doe.gov>. With access, the contractor POC can monitor and ensure that changes to the database are made in an accurate and timely manner.
3. The contractor is not permitted to award subcontracts or subcontract work tasks, to provide direct support to Headquarters program or staff offices in the Washington, D.C., area.
4. The contractor must submit to the head of the contracting activity (HCA) by May 1 a contractor administrative/overhead staffing plan for continuation of an existing or the creation of a staff office in the Washington, D.C., for the next fiscal year. The plans must meet the information standards for staffing plans, indicate the program account each assignment is charged against and identify the proposed staffing allocation for the next fiscal year.
5. The contractor must operate within its approved annual administrative/overhead allocation. Waiver requests to exceed approved allocation must be submitted to the HCA for concurrence and coordination.
6. The contractor must obtain approval of the HCA or designee, prior to assigning employees to positions in the Washington, D.C., area.
7. The contractor must provide information requested by the HCA, or his or her designee, in support of such assignments. This information may include:
  - a. rationale and description of required skills and expertise being provided;
  - b. determination that there is no adverse impact to work at the contractor's site;
  - c. determination and the basis for the determination that the assignment is critical and significant and mutually beneficial to both the program and facility if the assignment exceeds 12 months;

- d. determination that the work to be performed by the employee is within the scope of the facility management contract through which the assignee is employed and the assignment conforms with the staffing plan;
- e. cost breakout and description why the costs for each assignment are reasonable (including all indirect costs);
- f. notification of completion of work assignment;
- g. when applicable, a justification based on a critical need for requesting a waiver of the allocation;
- h. description why based on sponsor's requirements alternative sources were not practical;
- i. if an OCI has been identified, assurance that there is compliance with the mitigation plan.