

U.S. Department of Energy
Washington, D.C.

ORDER

DOE 4300.2C

12-28-94

SUBJECT: WORK FOR OTHERS (NON-DEPARTMENT OF ENERGY FUNDED WORK)

1. OBJECTIVES. Work for Others, which is the performance of work and/or the utilization of Department of Energy facilities that is not directly funded by Department of Energy appropriations has the following objectives:
 - a. Provide assistance to other Federal agencies and non-Federal entities in accomplishing goals that may otherwise be unattainable and avoid the possible duplication of effort at Federal facilities.
 - b. Where private facilities are inadequate, provide access for non-Department of Energy entities to highly specialized or unique Department of Energy facilities, services, or technical expertise.
 - c. Increase Research and Development Interactions between Department of Energy's facilities and industry to transfer technology originating in Department of Energy facilities to industry for further development or commercialization.
 - d. Maintain core competencies and enhance the science and technology base at Department of Energy facilities.
2. CANCELLATION. This order supersedes DOE 4300.26, NON-DEPARTMENT OF ENERGY FUNDED WORK (Work for Others), of 7-16-91.
3. APPLICABILITY. The provisions of this Order apply to all Departmental Elements and contractors performing Work for Others as provided by law or contract and as implemented by the appropriate Department of Energy Contracting Officer or authorized designee. This Order does not apply to the following:
 - a. Services, products, or materials regularly produced for sale at schedule rates under Departmental programs (e.g., routine irradiation services, radioisotopes, heavy water, and Naval Petroleum Reserve oil sales).
 - b. Work performed by non-DOE contractor personnel at a Department of Energy approved user facility (e.g., the National Synchrotron Light Source).

- c. Department of Energy funded work/services performed by one Department of Energy facility contractor for another.
 - d. Visits or assignments of foreign nationals to Department of Energy facilities.
 - e. Consulting services by Individual employees not representing themselves as Department of Energy employees or Department of Energy facility contractor employees.
 - f. Power marketing and transmission related work for the Power Marketing Administrations.
 - g. Cooperative Research and Development Agreements (CRADAs) performed under the National Competitiveness Technology Transfer Act of 1989.
 - h. Work for the Navy/DOE Naval Nuclear Propulsion Program.
 - i. Intergovernmental Personnel Act (IPA) assignments.
 - j. Other categories of work authorized by the Assistant Secretary for Human Resources and Administration, on a case by case basis.
4. AUTHORITY. See Attachment I, "REFERENCES", for laws and regulations which govern Work for Others.
5. POLICY. It is Departmental policy that Department of Energy resources be made available to non-Department of Energy entities; however, requirements delineated in paragraph 6 and other Department of Energy Orders and applicable regulations must be satisfied prior to performance of work.
6. REQUIREMENTS.
- a. Department of Energy facilities and resources may be made available to non-Department of Energy entities. A determination of the following must be made and certified in writing by the responsible Department of Energy Contracting Officer or authorized Department of Energy designee for work to be performed in the field. For work to be performed in Headquarters, a determination of the following must be made and certified by a Headquarters Contracting Officer.
 - (1) Is consistent with or complementary to Department of Energy missions and the missions of the facility to which the work is to be assigned:
 - (2) Would not adversely impact execution of assigned programs of the facility;

- (3) Would not place the facility in direct competition with the domestic private sector. and
- (4) Would not create a detrimental future burden on Department of Energy resources;

b. For all Federal agencies, other than the Nuclear Regulatory Commission, a written statement on or with the funding document is required stating that the requesting agency has determined that entering into an agreement with Department of Energy is in compliance with the requirements of the Economy Act of 1932, as amended (31 United States Code 1535) [or other applicable authorizations, e.g., Executive Order 12333]. Those authorizations must be cited. In addition, a written statement is required stating that:

- (1) the requesting agency has determined that entering into an agreement with Department of Energy is in compliance with the Federal Acquisition Regulation (FAR) 6.002, and
- (2) to the best of their knowledge, the work requested will not place Department of Energy and its contractor in direct the competition with the domestic private sector.

Sample Statement from a Federal Agency:

"This agreement is entered into pursuant to the authority of the Economy Act of 1932, as amended (31 United States Code 1535). [or other statutory authority references] and adheres to Federal Acquisition Regulation (FAR) 6.002. To the best of our knowledge, the work requested will not place the Department of Energy and its contractor in direct competition with the domestic private sector."

c. The requirements of 6a and 6b (if applicable) must be met prior to acceptance of reimbursable agreements and are also required for any modifications that are "out of scope" with the existing agreement. For previously approved work, with schedule and/or cost changes but no change in scope, the determinations and certification process is not required.

d. Responses to Broad Agency Announcements (BAAs), issued by other Federal agencies, are permitted when:

- (1) Work consists of research and development that is part of a national program or Department of Energy mission and utilizes Department of Energy's unique capability.

- (2) Department of Energy contractor informs the cognizant Operations Office when submitting a proposal for review that the proposed work is in response to a Broad Agency Announcement.
 - (3) Proposals are reviewed and approved by Department of Energy in accordance with this Order.
 - (4) Federal sponsors provide a written statement prior to acceptance that the Broad Agency Announcement is the only means used to acquire the work described in the Broad Agency Announcement.
- e. Pricing of work will be in accordance with DOE 21101A, Pricing of Departmental Materials and Services, of 2-16-84.
 - f. For Work for Others construction at a Department of Energy site which exceeds the General Plant Projects (GPP) threshold, approval of the cognizant Secretarial Officer and the Chief Financial Officer (CR-1) is required prior to initiation of work. In addition, all construction projects shall adhere to the following:
 - (1) Construction projects will be performed as required by DOE 4700. 1 Project Management System, of 3 6-87.
 - (2) Title for permanent construction will pass to Department of Energy upon completion of construction.
 - g. Equipment acquired as part of a project will be accounted for and maintained in the same manner as Department of Energy property. Disposition of equipment will be as previously agreed to or as instructed by the sponsor.
 - h. If subcontracting is necessary, selection of the subcontractor and work to be subcontracted will be made by the Department of Energy contractor. Subcontracted work is to be in direct support of the Department of Energy contractor.
 - i. Department of Energy or its facility contractors may not respond to Federal Agency Requests For Proposals (RFPs).
 - j. Intelligence-related activities will be conducted in accordance with Executive Order 12333, United States Laws, other Executive Orders, Presidential Directives, and Director of Central Intelligence Directives.
7. RESPONSIBILITIES AND AUTHORITIES.
- a. Assistant Secretary for Human Resources and Administration (HR-1).

- (1) Establishes Work for Others policies in coordination with the cognizant Secretarial Officers.
 - (2) Prepares Annual Summary Report of Work for Others performed by Department of Energy.
 - (3) Conducts periodic reviews of the implementation of this Order by cognizant Secretarial Officers and Heads of Field Elements.
 - (4) Approves requests for excluding projects from this Order.
- b. Chief Financial Officer (CR-1).
- (1) Develops and publishes work for Others accounting and budgeting procedures.
 - (2) Develops in coordination with Heads of Departmental Elements accounting and financial policy and standards for Work for Others.
 - (3) Prepares Work for Other financial reports as requested or required.
 - (4) Develops and maintains adequate financial information on Work for Others.
 - (5) Coordinates with cognizant Secretarial Officers to ensure the availability of funds for Work for Others projects accepted and performed at Headquarters.
 - (6) Concurs on Work for Others construction projects that exceed the General Plant Projects threshold.
- c. Deputy Assistant Secretary for Procurement and Assistance Management (HR-5).
- (1) Develops and publishes standard bilateral sales contract terms and conditions for use by Department of Energy Operations Offices.
 - (2) Develops procedures for deviations from standard terms and conditions.
 - (3) For projects accepted by Headquarters elements, ensures that the Associate Director for Procurement Operations accepts the project (unless delegated as in Paragraph 7j(2)).
- d. Deputy Assistant Secretary for International Policy (PO-7)
reviews and concurs on all Work for Others requests directly

funded by a foreign sponsor to ensure consistency with international agreements and foreign policy objectives.

e. General Counsel/Field Counsel.

- (1) Provides advice to Department of Energy elements on conflict of interest issues.
- (2) Provides Department of Energy legal advice and representation on questions related to non-competition and other legal issues.
- (3) Establishes policy on patent and technical data, advises on patent and technical data clauses of contracts, and approves waivers of patent rights.

f. Associate Director, Office of Health and Environmental Research (ER-70).

- (1) Oversees the established Department of Energy system to ensure all proposed Work for Others research involving human and/or animal subjects complies with the established regulations for protection of these subjects.
- (2) Reviews and approves proposed Work for Others projects involving human subjects for which approval authority has not been previously delegated to the Facility Contractor (research institution) through Department of Energy or the United States Department of Health and Human Services Multiple Project Assurance.
- (3) Reviews proposed Work for Others projects involving human and/or animal subjects that are of a sensitive nature (e.g., international locations, non-traditional sponsors).

g. Director, Office of Energy Intelligence (NN-30).

- (1) Reviews and approve, proposed intelligence-related Work for Others projects.
- (2) Coordinates program reviews of all intelligence-related Work for Others projects with the participation of appropriate Field Elements.
- (3) Is the central point of contact for coordination with sponsors of intelligence -related Work for Others projects.
- (4) Assures the cognizant Secretarial Officer is informed of any problems relating to field management of intelligence-related Work for Others.

- h. Director, Office of Research and Development (NN-20) reviews all Work for Others nuclear nonproliferation detection technology projects.
- i. Director, Office of Space and Defense Power Systems (NE-50) reviews Work for Others proposals involving space nuclear reactor, non-commercial power reactor, and radioisotope power source projects, excluding Nuclear Regulatory Commission, fusion, weapons-related activities, naval propulsion reactors, and experimental reactors to establish an appropriate Nuclear Energy management role.
- j. Program Secretarial Officers.
 - (1) For work accepted at Headquarters but performed in the field, the requirements of 6a and 6b must be met by the cognizant Field Element. Once these requirements are met, the responsible program Secretarial Officer can accept the project. If the responsible program Secretarial Officer has not been delegated authority to accept reimbursable agreements, HR-5 will accept. Once accepted, copies of all information must be forwarded to the Field Element(s) performing the work to instruct contractors to begin work.
 - (2) For work accepted and performed at Headquarters, the responsible program Secretarial Officer will satisfy the requirements of Paragraphs 6a and 6b and obtain concurrence from CR-1 prior to acceptance of the project. If the responsible program Secretarial Officer has not been delegated authority to accept reimbursable agreements, HR-5 will accept.
 - (3) Coordinate with CR-1 to certify that funds are available prior to acceptance of Work for Others projects performed at Headquarters.
- k. Cognizant Secretarial Officers.
 - (1) Develop and recommend changes in Work for Others policies to the Assistant Secretary for Human Resources and Administration.
 - (2) Provide notification to other appropriate Secretarial Officers of significant/sensitive Work for Others projects pursuant to Paragraph 7l(5).
 - (3) Obtain CR-1 concurrence prior to approval of facility construction actions that exceed the General Plant Projects threshold.

- (4) For each Department of Energy facility under their cognizance:
 - (a) Approve annual Work for Others levels and requests for increases to those levels in conjunction with recommendations of the responsible Head of Field Elements.
 - (b) Annually review the Work for Others Program to ensure consistency with Work for Others policies and procedures.

1. Heads of Field Elements.

- (1) Function as the Departmental managers for Work for Others conducted in Department of Energy facilities under their purview. In this capacity, they are accountable to the cognizant Secretarial Officer for this work.
- (2) Develop and implement procedures for the review, acceptance, authorization, and monitoring of Work for Others that are consistent with Department of Energy policies and procedures and encourage parallel review and processing by Department of Energy, the sponsor, and Facility Contractor.
- (3) Delegate to the cognizant Department of Energy contractor authority to sign and execute bilateral sales contracts between the Department of Energy contractor and a non-Department of Energy entity. Such authority may be delegated only when Department of Energy-approved standard terms and conditions are utilized and a written Department of Energy determination is provided regarding the adequacy of the contractor's management and administrative systems to properly execute and administer such contracts. When such authority is delegated, provide for the periodic review of the Department of Energy contractor policies and procedures and their implementation. Notwithstanding this delegation, the responsible Department of Energy Contracting Officer must ensure that the requirements of Paragraph 6a are satisfied.
- (4) For each facility under their purview:
 - (a) Recommend annual Work for others levels for approval by the cognizant Secretarial Officer.
 - (b) Monitor Work for Others levels to ensure consistency with the cognizant secretarial Officer-approved levels and request increases from the cognizant Secretarial Officer.

- (5) Notify the cognizant Secretarial Officer (using management judgment) of any Work for Others projects that involve sensitive subjects.
- (6) Assure Department of Energy and/or contractor review of proposed Work for Others projects involving human and/or animal subjects for compliance with the established regulations for protection of these subjects.
- (7) Assure that Work for Others projects under their purview are protected in accordance with applicable Department of Energy security, safeguards, and classification policies including the Site Security Plan or a supplemental security plan specific to the Work for Others project.
- (8) Assure Department of Energy and contractors review for compliance with Department of Energy environmental, safety, and health requirement including the National Environmental Protection Act.
- (9) Assure that the appropriate Headquarters element is involved in the Work for Others review process as described below:
 - (a) Cognizant Secretarial Officer reviews and approves all Work for Others construction at a Department of Energy site funded by a non-Department of Energy entity that exceeds the General Plant projects threshold.
 - (b) P0-7 reviews and concurs on all proposed Work for Others projects sponsored by a foreign entity.
 - (c) NE-50 reviews and approves an appropriate Nuclear Energy management role for all proposed Work for Others projects identified in 7i.
 - (d) NN-30 reviews and approves all proposed intelligence-related Work for Others projects as defined in attachment 2, paragraph 6.
 - (e) NN-20 is notified of all nuclear nonproliferation detection technology Work for Others projects.
 - (f) ER-70:
 - 1 reviews and approves all proposed projects involving human research subjects at Department of Energy facilities where no delegation of approval authority has been given pursuant to 7f(2).

² is notified of all proposed Work for Others projects involving human and/or animal subjects that are of a sensitive nature pursuant to 7f(3).

- (10) Establish and implement close-out procedures for Work for Others projects.
- (11) Establish performance goals and measures to assess field performance and effectiveness of local Work for Others processes and impacts of subsequent improvements and/or additional requirements.
- (12) Assure a project summary listing of information on each active Work for Others project is maintained. As a minimum, the Information should include:
 - (a) Field points of contact
 - (b) Total estimated costs
 - (c) Sponsoring Agency
 - (d) Project Title/Description
 - (e) Establish Start/Completion dates
 - (f) Assigned Laboratory/contractor
- (13) Assure project file information documenting policy compliance is maintained by Department of Energy and/or the performing contractor.
- (14) Submit an Annual Work for Others Report, for facilities under their purview to the cognizant Secretarial Officer and the Assistant Secretary for Human Resources and Administration by December 10.
- (15) Request, in coordination with the responsible Cognizant Secretarial Offices, exclusions from the requirements of this Order from the Assistant Secretary for Human Resources and Administration.

BY ORDER OF THE SECRETARY OF ENERGY:



ARCHER L. DURHAM
Assistant Secretary for
Human Resources and Administration

REFERENCES

1. FAR 35.017, Federally Funded Research and Development Centers (FFRDCs), which establishes Government-wide policies for the establishment, use, review, and termination of Federally Funded Research Development Centers.
2. FAR 17.5, Interagency Acquisitions Under the Economy Act, which prescribes policies and procedures for a Federal agency to obtain supplies or services from another Federal agency.
3. Atomic Energy Act of 1954, as amended (42 United States Code 2011 et seq.), Sections 31, 32, and 33, which authorizes the conduct of research and development and certain training activities for non-Department of Energy entities, provided that private facilities or laboratories are inadequate for that purpose. It authorizes such charges as may be appropriate for the conduct of those activities.
4. Economy Act of 1932, as amended (31 United States Code 1535), which authorizes an agency to place orders for goods and services, subject to availability, with another Government agency when the head of the ordering agency determines that it is in the best interest of the Government.
5. Intergovernmental Cooperation Act of 1968 (Public Law 90-577), as amended, which authorizes Federal agencies to perform work for State and local governments. Such work will be performed in accordance with the requirements of Office of Management and Budget Circular A-97.
6. Energy Reorganization Act of 1974 (Public Law 93-438), Section 205, which requires Federal agencies to furnish to the Nuclear Regulatory Commission (NRC) on a reimbursable basis, such research services as the Nuclear Regulatory Commission deems necessary and requests for the performance of its function.
7. Department of Energy Organization Act (Public Law 95-91), as amended, Section 649(b), which authorizes Department of Energy to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary.
8. The National Competitiveness Technology Transfer Act of 1989 (Public Law 1010, Sections 3131, 3132, 3133, and 3159), prescribes technology transfer as a mission of the Department of Energy and its facilities.
9. Stevenson-Wydler Technology Innovation Act of 1980 (Public Law 96-480), as amended, Section 11, which states as public policy that the Federal Government shall strive, to transfer Federally owned or originated technology to State and local governments and the private sector.

10. Executive Order 12333, "United States Intelligence Activities," part 1.13, which establishes responsibilities for Department of Energy to support the U.S. intelligence community by providing expert technical, analytical and research capability to others within the intelligence community and by participating in formulating intelligence collection and collection analysis requirements where Department of Energy expertise can contribute.
11. DOE 2110. 1A, PRICING OF DEPARTMENTAL MATERIALS AND SERVICES, of 7-14-88, which establishes policy for setting prices and charges for materials or services sold or provided by the Department of Energy, either directly or through facility contractors, to organizations and persons outside of the Department of Energy.
12. DOE 2200.6A, FINANCIAL ACCOUNTING, of 1-7-93, Chapter IX, "Reimbursable Work, Revenues, and Other Collections." which establishes Department of Energy-wide financial policy and procedural guidance for certain interagency reimbursable actions and reimbursable actions with non-Department, of Energy entities.
13. "Department of Energy Procedures for intelligence Activities," which provides supplemental guidance/requirements for the conduct of Intelligence Work for Others.

DEFINITIONS

1. Acceptance is the official act of signing a reimbursable agreement, e.g., bilateral sales contract or interagency agreement, by a Department of Energy contracting officer or Department of Energy official to whom such authority has been delegated that commits Department of Energy and/or its contractor to perform Work for Others. Authority to sign and execute bilateral sales contracts can be delegated to the Department of Energy contractor by the Head of a Field Element.
2. Approved Missions of a Facility are areas of technical focus approved by the Department of Energy that support the Department's missions.
3. Cognizant Secretarial Officer is the Department of Energy official, at the Assistant Secretary level, who is responsible for the assignment of work, the institutional overview of a facility, or both.
4. DOE Program Missions are basic statutory activities of the Department of Energy, such as nuclear weapons and materials, production and support, energy technology development, non-nuclear energy research and development and basic research.
5. Facility Contractors are entities that operate and maintain government owned facilities under contract with and for the benefit of the Department of Energy.
6. Intelligence-Related Work for Others is the following:
 - a. Work which is directly funded by intelligence appropriations or by an organization specifically identified in Executive Order 12333 as an intelligence organization.
 - b. Work funded by either the National Foreign Intelligence Program or the Tactical Intelligence and Related Activities Program.
 - c. Work for which the Cognizant Technical Department of Energy Headquarters Official is the Director, Office of Energy Intelligence (NN-30).
7. Non-Department of Energy Entities includes other Federal agencies; State, regional and local governments; private or commercial firms, not-for-profit organizations; international organizations; and foreign governments.
8. Responsible Department of Energy Contracting Officer is a Department of Energy official with responsibility for administering the contract for the operation of a Department of Energy research or production facility. This person is generally the Head of a Field Element.
9. Space Nuclear and Non-Commercial Power Reactor and Radiosotope Power Work for Others Projects include those Research and Development projects associated with nuclear energy that are space nuclear reactor, non-commercial power reactor, and radiosotope power source projects but

exclude Nuclear Regulatory Commission fusion, weapons-related activities, naval propulsion reactors, and experimental reactors.

10. Sponsor is an entity that provides funding for the performance of Work for Others.
11. Work for Others (WFO) is the performance of work for non-Department of Energy entities by Department of Energy/contractor personnel and/or the utilization of Department of Energy facilities that is not directly funded by Department of Energy appropriations.
12. Bilateral Sales Contract is a binding agreement (contract) between Department of Energy or a Department of Energy facility contractor and a non-Federal entity that commits Department of Energy to perform Work for Others activities.