

This directive was reviewed and certified as current and necessary by Susan J. Grant, Director, Office of Management, Budget and Evaluation/Chief Financial Officer, 11-3-04.

**SUBJECT: PRICING OF DEPARTMENTAL MATERIALS AND SERVICES**

---

1. OBJECTIVE. To set forth Department of Energy (DOE), including National Nuclear Security Administration (NNSA), requirements for establishing prices and charges for materials and services sold or provided to external organizations, other Federal agencies, and the private sector either directly or through the Department's site/facility management contracts.
2. CANCELLATION. DOE 2110.1A, *Pricing of Departmental Materials and Services*, dated 5-18-92. Cancellation of an Order does not, by itself, modify or otherwise affect any contractual obligation to comply with the Order. Canceled Orders that are incorporated by reference in a contract remain in effect until the contract is modified to delete reference to the requirements in the canceled Orders.
3. APPLICABILITY.
  - a. Primary DOE Organizations, Including NNSA Organizations. Except for the exclusions in paragraph 3c, this Order applies to all Primary DOE Organizations that charge for materials and services sold or provided to external organizations and other Federal agencies either directly or through the Department's site/facility management contractors. (See Attachment 1 for a complete list of Primary DOE Organizations.) This list automatically includes Primary DOE Organizations created after the Order is issued.
  - b. Site/Facility Management Contractors.
    - (1) The Contractor Requirements Document (CRD), Attachment 2, sets forth requirements of this Order that will apply to site/facility management contractors whose contracts include the CRD.
    - (2) This CRD must be included in all site/facility management contracts that involve performing work for others that requires establishing prices and charges for materials and services sold or provided to organizations and agencies outside DOE.
    - (3) This Order does not automatically apply to other than site/facility management contractors. Application of any requirements of this Order to other than site/facility management contractors will be communicated separately.

- (4) Heads of Departmental organizations are responsible for telling contracting officers which site/facility management contractors are affected by this Order. Once notified, contracting officers are responsible for incorporating the CRD into the contracts of affected site/facility management contractors via the laws, regulations and DOE directives clause.
  - (5) As the laws, regulations, and DOE directives clause of site/facility management contracts states, regardless of the performer of the work, site/facility management contractors with a CRD incorporated into their contracts are responsible for compliance with the requirements of the CRD.
    - (a) Affected site/facility management contractors are responsible for flowing down the requirements of this CRD to subcontractors at any tier to the extent necessary to ensure the site/facility management contractors' compliance with the requirements.
    - (b) Site/facility management contractors must not flow down requirements to subcontractors unnecessarily or imprudently. That is, contractors will—
      - 1 ensure that they and their subcontractors comply with the requirements of the CRD and
      - 2 incur only costs that would be incurred by a prudent person in the conduct of competitive business.
- c. Exclusions. The general pricing policy will not apply when prices or charges are otherwise established or prohibited by statute, Executive order, or regulation. The provisions of this Order will not apply to—
- (1) power marketing and related activities of the Bonneville, Southeastern, Southwestern, and Western Area Power Administrations;
  - (2) prices for crude oil and related materials and services from the Naval Petroleum and Oil Shale Reserves;
  - (3) prices for uranium enrichment and related services, source material, and special nuclear material;
  - (4) costs of processing information requests submitted under the Freedom of Information and Privacy Acts;
  - (5) costs relating to energy data and information provided by the Energy Information Administration;
  - (6) prices for crude oil and related materials and services from the Strategic Petroleum Reserve;

- (7) costs relating to the disposal of excess and surplus property;
- (8) fees and costs for the storage and disposal of radioactive waste provided under the Nuclear Waste Policy Act;
- (9) Federal Energy Regulatory Commission as an independent regulatory commission; and
- (10) prices for the sale of isotope products and services.

4. PRICING REQUIREMENTS.

a. General Pricing Policy.

- (1) For materials and services provided to organizations and agencies outside DOE, the Department will charge full cost. Full cost includes all direct costs incurred in performing work, all allocable costs incurred by the Department and its site/facility management contractors at any DOE/NNSA facility, and a Federal administrative charge of 3 percent of these costs (see paragraph 10a of this Order).
- (2) In no case will any depreciation or imputed interest charges be imposed on a non-DOE entity requesting materials or services. Materials and services provided are those which the Department is authorized to provide by law.

b. Cosponsored Work, Cooperative Research and Development Agreements (CRADAs), and Other Technology Transfer Mechanisms. The Department will assess a Federal administrative charge of 3 percent on all funds contributed by the sponsor, regardless of the level of Departmental participation in funding the work effort. In-kind contributions will not be subject to the Federal administrative charge.

c. Activities Requiring Special Consideration. The general pricing policy will not apply to activities that require special pricing consideration (see paragraph 5 of this Order).

d. Pricing Exceptions for Assessing the Federal Administrative Charge.

- (1) There are a limited number of exceptions to the requirement to assess the 3 percent Federal administrative charge for reimbursable work performed for non-DOE entities:
  - (a) funds-in agreements with domestic entities as follows: small business concerns, institutions of higher education, nonprofit entities, and State and local governments; and

- (b) blanket pricing exceptions covering research, development, testing, evaluation, training, and exercises directly related to specified activities and approved by the Secretary.

NOTE: The current listing of blanket exceptions is available from the Office of Financial Policy. If any of the blanket exceptions are canceled, the Departmental Chief Financial Officer (CFO) will issue notification.

- (2) Since pricing exceptions are authorized only for the items noted in paragraphs 4d(1)(a) and (b), above, no formal approval is required. However, the cognizant field CFO or equivalent must take appropriate measures to ensure that the Department's general pricing policy is followed by DOE site/facility management contractors and that pricing exceptions are limited to only those items found in paragraph 4d(1).
- (3) Thirty days after the close of each quarter, the Summary Pricing Exception Report (see Attachment 3), will be submitted to the Office of Financial Policy for the items noted in paragraph 4d(1) above. In addition, for each blanket pricing exception [paragraph 4d(1)(b)], detailed information must be maintained at the field organization level and need not be submitted to the Office of Financial Policy (see format in Attachment 4).
- (4) Pricing exceptions are based on who the primary customer is regardless of the source of funds. The following situations provide illustrations.
  - (a) A non-DOE entity is awarded a contract for research and development work through a DOE program office, laboratory, or facility. The non-DOE organization wishes to contract part of the work with another DOE laboratory to take advantage of unique expertise available there.
    - 1 The non-DOE entity would be assessed the 3 percent Federal administrative charge even though the funding source is a DOE program office, laboratory, or facility.
    - 2 If the non-DOE entity is a domestic small business concern, nonprofit organization, institution of higher education, or a State or local government, then the Federal administrative charge would not be assessed.
  - (b) A domestic small business concern, nonprofit organization, institution of higher education, or a State or local government receives funding from a source that does not ordinarily qualify for a pricing exception. If one of the noted entities subcontracts work to a DOE laboratory, exception rules apply and the Federal

administrative charge would not be assessed on the funds received for the work.

5. ACTIVITIES REQUIRING SPECIAL PRICING CONSIDERATION.

- a. Information Dissemination Materials. Charges will be governed by Office of Management and Budget (OMB) Circular A-130, *Management of Federal Information Resources*, which requires that charges be set at a level sufficient to recover the cost of dissemination but no higher. Charges must exclude the cost of the original collection and processing of the information. Exceptions to this policy are where—
  - (1) statutory requirements are at variance with the policy;
  - (2) DOE collects, processes, and disseminates the information for the benefit of a specific identifiable group beyond the benefit to the general public (Full costs associated with the original collection, processing, and dissemination of the information shall be charged);
  - (3) DOE plans to establish user charges at less than the cost of dissemination because it has been determined that higher charges would constitute a significant barrier to properly performing its functions, including reaching members of the public whom DOE has a responsibility to inform; and
  - (4) the Director of OMB determines an exception is warranted.
- b. Byproduct Material. Prices and charges for byproduct material sold pursuant to Title 42 United States Code (U.S.C.) 2111 and 2112 shall be either the full cost recovery price or the commercial price, whichever is higher. Lower prices may be established if it is determined that such prices and charges will provide reasonable compensation to the Government, will not discourage the use of or the development of sources of supply independent of DOE, and will encourage research and development.
- c. Other Materials and Services. Prices and charges for materials and services sold pursuant to 42 U.S.C. 2201(m) shall be either the full cost recovery price or the commercial price, whichever is higher. Lower prices and charges may be established if it is determined that such prices and charges would still provide reasonable compensation to the Government and would not discourage the development of supply sources independent of DOE.
- d. Foreign Research Reactor Spent Nuclear Fuel Program. Because this program was conducted in the national interest, pricing for less than full cost recovery was approved (published in the Federal Register on May 28, 1996). Under this program, DOE charges a fee for shipments originating from high-income economy countries and DOE bears the full cost of shipping and managing foreign research reactor fuel received from other countries, including at-reactor preparation.

- e. Access Permits. An access permit is a permit issued by DOE authorizing access by the named party to restricted data applicable to civil uses of atomic energy in accordance with the terms and conditions stated on the permit. No charge shall be made for access permits issued by DOE with the exception of those access permits which are charged in accordance with Title 10 Code of Federal Regulations (CFR) 725.
- f. Access Authorizations. No charges shall be made for access authorizations when authorization—
  - (1) is transferred from a study agreement to an access permit held by the same organization;
  - (2) is for an employee or staff member of an accredited, nonprofit educational institution having, at a minimum, a 2-year program of college level studies, and the work is related to the civilian application of nuclear energy;
  - (3) will not be considered one for which DOE has been paid, when the individual transfers to another organization; and
  - (4) is granted to obtain full and free competition.
- g. Use Permits. No charge will be assessed for preparing a permit which authorizes the use of DOE facilities or services. Charges for use of the facilities or services will be calculated separately.
- h. Assistance for the Protection of Health and Safety in the Event of Radiological Incidents.
  - (1) Organizations and agencies outside DOE will not be charged for the services of DOE radiological emergency assistance team personnel or the use of DOE resources for response to radiological health and safety hazards resulting from incidents associated with DOE and DOE contractor operations, licensed activities, transportation, or other activities involving radioactive materials.
  - (2) DOE may determine that it is appropriate to request reimbursement of such assistance when DOE resources are requested by another Federal agency or a State or local government, in accordance with agreements which provide for reimbursement to DOE.
- i. Museums and Exhibits. Unless there is specific authority to collect admission fees, visitors to DOE museums and exhibits will not be charged for admission.
- j. Commercial Property Rental. Rental rates for commercial properties rented to non-DOE entities shall be established normally by competitive bid. However,

property rented to community reuse organizations may be rented at less than competitive rates. Also, in certain cases rental rates for commercial property may be negotiated in accordance with 42 U.S.C. 2325.

- k. Use of Facilities. Charges for the use of real property or any facility, structure, or other improvement thereon may be authorized under such terms, at such rates, and for such periods as are deemed to be in the public interest.
  
- l. Office of Science User Facilities. Research user facilities (e.g., accelerators and light sources) managed by the Office of Science are built by the Government with the express purpose of being available for research by a broad community of qualified users on the basis of programmatic interest, scientific merit of research proposals, technical feasibility, capability of the experimental group, and availability of the resources required.
  - (1) Use of user facilities will be authorized at no charge for research which is of DOE programmatic interest and which is approved by laboratory management, usually with the advice of program advisory committees. Use free of charge will apply to experiments approved for conduct during periods in which the facility operates in normal mode for its primary purpose. The facility manager will determine which requests meet those criteria and report periodically to the appropriate DOE program manager.
  - (2) When facilities are made available for proprietary research, the user will be charged a fee that realizes full cost recovery (see paragraph 10b).
  - (3) When facilities are operated for special circumstances, such as running the facility outside the normal operating mode or schedule, the user will be charged a fee that recovers the incremental costs.
  
- m. Hazardous Materials Spill Center. The center (managed by the NNSA Service Center) provides other Federal agencies and private industry a site to conduct live releases of hazardous materials (HAZMAT), train emergency responders and HAZMAT specialists, test protective gear and equipment, test mitigation techniques using live material, stand-off HAZMAT identification, and plume dispersion experimentation. Users do not receive goods or services usually received for other reimbursable work. Because the product of users' experiments is knowledge and understanding that will be available to the user and the general public, users should be charged only for direct and indirect costs of their experiments but not the Federal administrative charge.
  
- n. Intergovernmental Personnel Act.
  - (1) Participating DOE organizations may negotiate the financial arrangements governing an assignment, including pay, fringe benefits, relocation costs, travel and per diem expenses, and supplemental pay (in

unique circumstances). When a DOE site/facility management contractor employee is involved, a reduced allocation of general and administrative costs that includes only those functions or categories that provide benefit to the IPA agreement may be included.

- (2) Organizations may agree to establish an assignment on a wholly reimbursable, partially reimbursable, or nonreimbursable basis.
- (3) If DOE is to bear full cost, justification must be attached or included in the assignment agreement. DOE M 321.1-1, *Intergovernmental Personnel Act Assignments*, dated 8-24-00, provides additional details regarding those assignments.

6. BIENNIAL REVIEW OF PRICES FOR MATERIALS AND SERVICES. Biennial reviews are to be conducted of prices charged for materials and services available from the Department to ensure prices reflect costs incurred and to revise prices, as necessary. Procedures to accomplish the required pricing reviews over recurring 2-year cycles are delineated below.

- a. The Departmental CFO shall oversee the biennial review process executed by Departmental organizations, including NNSA. To accomplish this, the following actions are taken by the Departmental CFO.
  - (1) Review annually the memoranda and reports documenting the reviews of prices for materials and services submitted by Departmental organizations.
  - (2) Include the results of the biennial reviews of prices for materials and services and any resultant proposals and/or corrective actions in the DOE Annual Financial Management Plan and, as appropriate, submit to the Office of Management and Budget.
  - (3) Follow up periodically on the status of corrective actions.
  - (4) Champion proposals to initiate new fees via rule making, new legislation, or other appropriate means.
- b. DOE Headquarters and field organizations, including NNSA, are required to perform biennial reviews of prices for all materials and services listed in Attachments 5 and 6 that are under their cognizance.
  - (1) Cognizant field CFO or equivalent must accomplish reviews of prices every 2 years for all applicable activities covered in Attachment 5. Applicable heads of Headquarters organizations are required to perform biennial pricing reviews for the activities covered in Attachment 6. The objective of the reviews is to provide reasonable assurance to the Departmental CFO, that—

- (a) prices conform to the requirements of OMB Circular A-25, *User Charges*, and Departmental pricing policy or other legislative authority, as applicable;
    - (b) adequate documentation exists for prices established for materials and services; and
    - (c) exceptions granted to the Department's full cost recovery policy are limited only to those delineated in this Order.
  - (2) Because the activities in Attachments 5 and 6 may not be all inclusive, when appropriate, review other materials and services to identify potential new user fees either under existing authority or by proposing new legislative authority.
  - (3) Prepare and maintain action plans and schedules to correct deficiencies identified through review of prices. The cognizant field CFO or equivalent shall approve corrective action plans and ensure timely implementation of recommended corrective actions by the Department's site/facility management contractors.
  - (4) Prepare and submit to the Departmental CFO, no later than December 31 of each year, a memorandum signed by the head of the DOE Headquarters organization or the cognizant field CFO or equivalent, containing the results of the reviews conducted or alternative audits or reports utilized to satisfy the biennial pricing review requirement. A submission must be made to the Departmental CFO each year. In the years when no reviews are performed or required to be performed, a progress report detailing the schedule or progress in completing the required reviews must be submitted. The aforementioned memorandum must include at a minimum the following:
    - (a) materials and services reviewed;
    - (b) methodology used to accomplish the review, including a copy of any review report used to support the attestation;
    - (c) attestation that fees and rates for its materials and services comply with OMB Circular A-25 and Departmental pricing policy or other legislative authority; and
    - (d) deficiencies identified and corrective actions taken or to be taken to correct deficiencies.
7. **BILLING.** Invoices for materials and services will be prepared and issued promptly in accordance with the terms of contracts or agreements. Specific billing procedures will follow those delineated in the DOE Accounting Handbook, Chapter 8, Receivables.

8. RESPONSIBILITIES.a. Chief Financial Officer.

- (1) Develops and interprets DOE pricing policy and, in cooperation with the appropriate heads of Headquarters organizations, determines the applicability of policy in any given case.
- (2) Reviews prices and charges developed by heads of Headquarters and field organizations for compliance with this Order before implementation, and as considered necessary, furnishes advisory reports and recommendations on prices to the Secretary and other organizations.
- (3) Approves, or in certain cases refers to the Secretary, requests to waive costs incurred on behalf of non-DOE entities because of unique or rare circumstances if deemed appropriate and approved by the head of the field organization and the cognizant head of the Headquarters organization. Costs waived must be funded entirely by the Headquarters organization appropriations if allowable under law.
- (4) Maintains the Departmental listing of approved blanket pricing exceptions.
- (5) Oversees the biennial review process executed by DOE/NNSA organizations.

b. Heads of DOE Headquarters Organizations and NNSA Administrator.

- (1) Ensure that prices for materials and services under their cognizance are set in accordance with requirements of this Order.
- (2) In unique or rare circumstances, submit requests for waiver of costs incurred on behalf of non-DOE entities to the Departmental CFO for concurrence and/or approval. Costs waived must be funded entirely by the Headquarters organization appropriations if allowable under law.
- (3) Consult with the Departmental CFO on matters relating to pricing and full cost recovery.
- (4) Perform biennial reviews of prices for materials and services under their cognizance.

c. Heads of Field Organizations.

- (1) Ensure that the policies, procedures, and reporting requirements contained in this Order are followed.

- (2) Develop and approve prices for materials and/or services when the prices are based on full cost recovery.
  - (3) Disseminate new and revised prices and charges to interested customers, organizations, and persons within and outside DOE.
  - (4) Submit requests for waiver of costs incurred on behalf of non-DOE entities only under extremely unique or rare circumstances to the head of the appropriate Headquarters organization for consideration and approval. Costs waived must be funded entirely by the Headquarters organization appropriations if allowable under law.
- d. Cognizant Field CFO or Equivalent.
- (1) Notifies contracting officers when site/facility management contracts are affected by requirements of this Order.
  - (2) Provides a quarterly report of the Federal administrative charge exceptions to the Departmental CFO (see Attachment 3).
  - (3) Conducts the biennial pricing review for all materials and services under their cognizance and reports the field organization's results to the Departmental CFO.
- e. Contracting Officers. After being notified that the requirements of this Order apply to site/facility management contracts under their cognizance, ensure that the CRD is incorporated into affected site/facility management contracts via the laws, regulations, and DOE directives clause.
- f. General. Authority and responsibility for establishing prices and charges for materials or services being provided by DOE or through a DOE contractor to a third party cannot be delegated to a non-DOE official.

9. REFERENCES.

- a. Public Law (P.L.) 105-261, National Defense Authorization Act for Fiscal Year 1999, Section 3137, which provides specific authorities regarding the conduct of research and other activities at Departmental facilities on behalf of non-DOE persons and entities; and establishes a standard Federal administrative charge in an amount not to exceed 3 percent to be applied to work performed on behalf of these entities.
- b. P.L. 101-576, the Chief Financial Officers Act of 1990, and DOE O 520.1 Chg 1, *Office of Chief Financial Officer*, dated 11-27-01, which require biennial pricing reviews of the fees, royalties, rents, and other charges for services and things of value the Department provides.

- c. DOE O 534.1B, *Accounting*, dated 1-6-03, and the DOE Accounting Handbook, which prescribe the requirements and responsibilities for the accounting and financial management of DOE.
- d. DOE O 481.1B, *Work for Others (Non-Department of Energy Funded Work)*, dated 9-28-01, which establishes policy, responsibilities, and procedures for authorizing and administering non-DOE funded work performed under DOE contracts.
- e. 31 U.S.C. 1535 and 1536, Economy Act of June 1932, as amended, which authorizes agencies to place orders with other Federal agencies when the head of the ordering agency determines it to be in the best interest of the Government.
- f. 31 U.S.C. 9701, Fees and Charges for Government Services and Things of Value, which establishes policy for selling services and products.
- g. 42 U.S.C. 2051, 2053, 2073, 2074, 2093, 2094, 2111, 2112, and 2201, Atomic Energy Act of 1954, as amended, which authorizes the Department to establish prices and charges for nuclear materials and other related materials and services sold or provided by the Department.
- h. 5 CFR 334, Intergovernmental Personnel Act, which provides policy and procedures for temporary assignment of employees between Federal agencies and State, local, and Indian tribal governments, institutions of higher education, and other eligible organizations.
- i. OMB Circular A-25, *User Charges*, dated 7-8-93, which establishes Government policy of recovering full cost for services, goods or resources and the basis for setting user charges and provides guidance for agency implementation of charges and the disposition of collections.
- j. OMB Circular A-130, *Management of Federal Information Resources*, dated 11-30-00, which establishes policy for information management.

## 10. DEFINITIONS.

- a. Federal Administrative Charge. Federal administrative costs associated with work performed at Departmental facilities. This charge is in lieu of including any Headquarters and field organization costs applicable to such work, as well as depreciation and imputed interest, and is set at 3 percent pursuant to the provisions of the National Defense Authorization Act for Fiscal Year 1999.
- b. Full Cost. All direct and all indirect costs, including general and administrative expenses, incurred at any Departmental facility by the Department and its site/facility management contractors in performing work on behalf of non-DOE entities, and a Federal administrative charge of 3 percent of these costs.

DOE O 522.1  
11-3-04

13 (and 14)

11. CONTACT. For information about this Order, contact the Office of Financial Policy at 202-586-4860.

BY ORDER OF THE SECRETARY OF ENERGY:



KYLE E. McSLARROW  
Deputy Secretary

**DEPARTMENT OF ENERGY ORGANIZATIONS TO WHICH  
DOE O 522.1 IS APPLICABLE**

Office of the Secretary  
Departmental Representative to the Defense Nuclear Facilities Safety Board  
National Nuclear Security Administration  
Office of the Chief Information Officer  
Office of Civilian Radioactive Waste Management  
Office of Congressional and Intergovernmental Affairs  
Office of Counterintelligence  
Office of Economic Impact and Diversity  
Office of Electric Transmission and Distribution  
Office of Energy Assurance  
Office of Energy Efficiency and Renewable Energy  
Office of Environment, Safety and Health  
Office of Environmental Management  
Office of Fossil Energy  
Office of General Counsel  
Office of Hearings and Appeals  
Office of Independent Oversight and Performance Assurance  
Office of Intelligence  
Office of Legacy Management  
Office of Management, Budget and Evaluation/Chief Financial Officer  
Office of Nuclear Energy, Science and Technology  
Office of Policy and International Affairs  
Office of Public Affairs  
Office of Science  
Office of Security  
Office of Security and Safety Performance Assurance  
Office of the Inspector General  
Secretary of Energy Advisory Board

**CONTRACTOR REQUIREMENTS DOCUMENT  
DOE O 522.1, PRICING OF DEPARTMENTAL MATERIALS AND SERVICES**

Regardless of the performer of the work, the site/facility management contractor is responsible for complying with the requirements of this CRD. The site/facility management contractor is responsible for flowing down the requirements of this CRD to subcontractors at any tier to the extent necessary to ensure the contractor's compliance with the requirements. In doing so, the site/facility management contractor must not flow down requirements to subcontractors unnecessarily or imprudently. That is, the site/facility management contractor will ensure that it and its subcontractors comply with the requirements of this CRD and incur only those costs that would be incurred by a prudent person in the conduct of competitive business.

Site/facility management contractors are expected to meet the following requirements through tailoring of their business processes and practices.

1. When the site/facility management contractor conducts activities of providing non-DOE entities materials or services, which the Department is authorized by law to provide, the site/facility management contractor must charge the non-DOE entity the full cost of providing the materials or services. Full cost includes all site/facility management contractor direct costs incurred in performing work, all allocable costs incurred by the site/facility management contractor at any DOE/NNSA facility, and a Federal administrative charge of 3 percent of these costs. In no case will any depreciation or imputed interest charges be imposed on the non-DOE entity requesting the materials or services.
2. For cosponsored work, Cooperative Research and Development Agreements (CRADAs), and other technology transfer mechanisms, the site/facilities management contractor will assess a Federal administrative charge of 3 percent on all funds contributed by the sponsor, regardless of the level of Departmental participation in funding the work effort. In-kind contributions will not be subject to the Federal administrative charge.
3. The site/facility management contractor may provide an exception to the requirement to assess the 3 percent Federal administrative charge for reimbursable work performed for non-DOE entities as follows:
  - a. funds-in agreements with domestic entities: small business concerns, institutions of higher education, nonprofit entities, and State and local governments.
  - b. based on the current listing of blanket pricing exceptions provided by DOE to the contractor for work covering research, development, testing, evaluation, training, and exercises directly related to specified activities listed. If any of the blanket exceptions are canceled, DOE will provide the contractor with appropriate notification.

4. In the following situations, the contractor may provide a pricing exception based on who the primary customer is regardless of the source of funds. The following situations provide illustrations for the contractor in making such determinations.
  - a. A non-DOE entity is awarded a contract for research and development work through a DOE program office, laboratory, or facility. The non-DOE organization wishes to contract part of the work with another DOE laboratory to take advantage of unique expertise available there.
    - (1) The non-DOE entity would be assessed the 3 percent Federal administrative charge even though the funding source is a DOE program office, laboratory, or facility.
    - (2) If the non-DOE entity is a domestic small business concern, nonprofit organization, institution of higher education, or a State or local government, then the Federal administrative charge would not be assessed.
  - b. A domestic small business concern, nonprofit organization, institution of higher education, or a State or local government receives funding from a source that does not ordinarily qualify for a pricing exception. If one of the noted entities subcontracts work to a DOE laboratory, exception rules apply and the Federal administrative charge would not be assessed on the funds received for the work.
5. The following activities may become part of the contractor's responsibilities. These activities require special pricing consideration and, as applicable, DOE will provide the contractor with additional information for pricing the activity.
  - a. Information Dissemination Materials. DOE must comply with Office of Management and Budget (OMB) Circular A-130, *Management of Federal Information Resources*. The contractor will assist DOE in complying with Circular A-130. Circular A-130 requires DOE to set charges at a level sufficient to recover the cost of dissemination but no higher. Charges must exclude the cost of the original collection and processing of the information. Should an exception to this policy be warranted, DOE will provide additional guidance.
  - b. Byproduct Material. The contractor shall establish prices and charges for byproduct material sold, pursuant to Title 42 United States Code (U.S.C.) 2111 and 2112, at either the full cost recovery price or the commercial price, whichever is higher. Lower prices may be established if it is determined that such prices and charges will provide reasonable compensation to the Government, will not discourage the use of or the development of sources of supply independent of DOE, and will encourage research and development. Before establishing lower prices, the contractor shall obtain the approval of DOE.
  - c. Other Materials and Services. The contractor shall establish prices and charges for materials and services sold, pursuant to 42 U.S.C. 2201(m), at either the full cost recovery price or the commercial price, whichever is higher. Lower prices and

charges may be established if it is determined that such prices and charges would still provide reasonable compensation to the Government and would not discourage the development of supply sources independent of DOE. Before establishing lower prices, the contractor shall obtain the approval of DOE.

- d. Foreign Research Reactor Spent Nuclear Fuel Program. DOE will provide the contractor guidance on charging for this activity.
- e. Access Permits. The contractor shall not charge for access permits issued with the exception of those access permits which are charged in accordance with Title 10 Code of Federal Regulations (CFR) 725.
- f. Access Authorizations. The contractor shall not assess charges for access authorizations when authorization—
  - (1) is transferred from a study agreement to an access permit held by the same organization;
  - (2) is for an employee or staff member of an accredited, nonprofit educational institution having, at a minimum, a 2-year program of college level studies, and the work is related to the civilian application of nuclear energy;
  - (3) will not be considered one for which DOE has been paid, when the individual transfers to another organization; and
  - (4) is granted to obtain full and free competition.
- g. Use Permits. The contractor shall not assess a charge for preparing a permit which authorizes the use of DOE facilities or services. Charges for use of the facilities or services will be calculated separately.
- h. Assistance for the Protection of Health and Safety in the Event of Radiological Incidents. The contractor shall request guidance from DOE on charging for this activity.
- i. Museums and Exhibits. Unless there is specific authority to collect admission fees, the contractor will not charge visitors to DOE museums and exhibits for admission.
- j. Commercial Property Rental. DOE will provide the contractor guidance on charging for this activity.
- k. Use of Facilities. DOE will provide the contractor guidance on charging for this activity.
- l. Office of Science User Facilities. The contractor may make the Office of Science User Facilities available for research by a broad community of qualified users on the basis of programmatic interest, scientific merit of research proposals, technical

feasibility, capability of the experimental group, and availability of the resources required. The contractor shall adhere to the following regarding charging users for use of the facilities.

- (1) Use of user facilities will be authorized at no charge for research which is of DOE programmatic interest and which is approved by laboratory management, usually with the advice of program advisory committees. Use free of charge will apply to experiments approved for conduct during periods in which the facility operates in normal mode for its primary purpose. The facility manager will determine which requests meet those criteria and report periodically to the appropriate DOE program manager.
  - (2) When facilities are made available for proprietary research, the user will be charged a fee that realizes full cost recovery (see definition in item 9b, below).
  - (3) When facilities are operated for special circumstances, such as running the facility outside the normal operating mode or schedule, the user will be charged the incremental costs.
- m. Hazardous Materials Spill Center. The contractor will charge users of the facility only for direct and indirect costs for their experiments.
- (1) Invoices for materials and services will be prepared and issued promptly in accordance with the terms of the reimbursable work contracts or agreements.
  - (2) Work for others issues are covered in the work for others clause of this contract.
  - (3) Collections are covered under the payments and advances clause of this contract.
6. The following definitions apply to terms in this document.
- a. Federal Administrative Charge. Federal administrative costs associated with work performed at Departmental contractor facilities. This charge is in lieu of including any Headquarters and field organization costs applicable to such work, as well as depreciation and imputed interest and is set at 3 percent pursuant to the provisions of the National Defense Authorization Act for Fiscal Year 1999.
  - b. Full Cost. All direct and all indirect costs, including general and administrative expenses, incurred at any Departmental contractor facility by the site/facility management contractors in performing work on behalf of non-DOE entities, and a Federal administrative charge of 3 percent of these costs.

**SUMMARY PRICING EXCEPTION REPORT**

For the Quarter Ended: \_\_\_\_\_ DOE Facility/Contractor: \_\_\_\_\_

	Small Business Concern	Nonprofit Entity	State/Local Government	Higher Education Institution	Blanket Exceptions <sup>1</sup>
<b>Reimbursable Work For Others:</b>					
Direct and Indirect Costs (Excluding Depreciation)					
Federal Administrative Charge (Not Assessed)					
<b>CRADA/Technology Transfer:</b>					
Direct & Indirect Costs (Excluding Depreciation)					
Federal Administrative Charge (Not Assessed)					
<b>Cosponsored Work:</b>					
Direct & Indirect Costs (Excluding Depreciation)					
Federal administrative charge (Not Assessed)					

<sup>1</sup>The entries for this column must be supported with individual Blanket Pricing Exception Reports found in Attachment 4 and maintained at the field organization level.

### BLANKET PRICING EXCEPTION REPORT

Blanket Pricing Exception Title: \_\_\_\_\_

**Category of Work:**

\_\_\_\_\_ Reimbursable Work for Others

\_\_\_\_\_ Cosponsored Work

\_\_\_\_\_ CRADA/Technology Transfer

Name of Customer/Cosponsor: \_\_\_\_\_

Project Title: \_\_\_\_\_

DOE Facility/Contractor Performing Work: \_\_\_\_\_

**Cost Data:**

Direct and Indirect Costs (Excluding Depreciation) \$ \_\_\_\_\_

Federal Administrative Charge (Not Assessed) \$ \_\_\_\_\_

For further information contact \_\_\_\_\_  
Name Phone Number

\_\_\_\_\_  
Date

### **ACTIVITIES REQUIRING BIENNIAL PRICING REVIEWS**

In the absence of a specific site-wide audit or review conducted during the 2-year period, a review must be conducted to satisfy the biennial pricing review requirement for each of the following activities.

1. Sale of Products
2. Sale of Nuclear Materials
3. Rents and Services
4. Reimbursable Work for Others Program
5. Cooperative Work Agreements
6. Technology Transfers (CRADAs)
7. Royalties
8. Related Party Transactions

**EXISTING REVIEWS AND REPORTS WHICH MAY BE USED  
TO SATISFY BIENNIAL PRICING REVIEW REQUIREMENT**

1. Sale of Oil from Naval Petroleum and Oil Shale Reserves (NPOSR). The Office of Fossil Energy may utilize new contract reviews to satisfy the biennial pricing review requirement. These reviews are performed at least annually for each contract to ensure bid prices meet minimum price guidelines required by Federal statute. The authority for the NPOSR sales program is Naval Petroleum Reserve Production Act of 1976, as amended by P.L. 99-413 (10 U.S.C. 7430). The reviews may be summarized into a single document for submission to the Departmental CFO.
2. Sale of Oil from Strategic Petroleum Reserves (SPR). The Annual Strategic Petroleum Reserve Report may be utilized by the Office of Fossil Energy to satisfy the biennial pricing review requirement. The authority for the SPR sales program is the Energy Policy and Conservation Act of 1992 (P.L. 94-163). Sales are based on market bid prices, with the Secretary of Energy given authority to determine if the bids are appropriate.
3. Nuclear Waste Fund. The annual independent audit of the Nuclear Waste Fund or the annual Nuclear Waste Fund Fee Adequacy Assessment may be utilized by the Office of Civilian Radioactive Waste Management to satisfy the biennial pricing review requirement. The authority for the activity is found in the Nuclear Waste Policy Act of 1982 (P.L. 97-425). DOE collects a one mill per kilowatt hour fee on all net electricity generated by civilian nuclear power reactors for deposit into the Nuclear Waste Fund.
4. Federal Energy Regulatory Commission (FERC). The annual independent audit of FERC may be utilized to satisfy the biennial pricing review requirement. The Omnibus Reconciliation Act of 1986 (P.L. 99-509) and other laws authorizes FERC to collect the full cost of its operation from annual charges and fees.
5. Uranium Enrichment Decontamination and Decommissioning (D&D) Fund/Utility Assessment. The annual independent audit of the D&D Fund may be utilized by the Office of Environmental Management to satisfy the biennial pricing review requirement. The Energy Policy Act of 1992 authorizes revenues to be obtained via congressional appropriations and an assessment on domestic utilities.
6. Sale of Isotopes and Related Services. The annual independent audit of the Isotope Production and Distribution Program may be utilized by the Office of Nuclear Energy, Science and Technology to satisfy the biennial pricing review requirement. In addition, the Isotope Program's current price list of isotopes, which is regularly updated, also satisfies the biennial pricing review requirement.
7. Power Marketing Administration (PMA) Revenue. The PMAs may utilize annual power repayment studies to satisfy the biennial pricing review requirement.