



DEPARTMENT OF THE NAVY  
OFFICE OF THE ASSISTANT SECRETARY  
(RESEARCH, DEVELOPMENT AND ACQUISITION)  
1000 NAVY PENTAGON  
WASHINGTON DC 20350-1000

SEP 30 2011

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Department of Defense (DoD)-Wide Policy for Using the Department of Energy's (DoE's) Work for Others (WFO) Program to Access DoE-Owned Research, Development and Production Facilities through Interagency Agreements (IAs)

The attached Director, Defense Procurement and Acquisition Policy (DPAP), memorandum provides authority for, and direction on, use of Interagency Agreements to access DoE's WFO program for Fiscal Years 2012 and 2013, unless otherwise rescinded.

The Office of Management and Budget and Department of the Treasury have developed a standard Interagency Agreement (IA) form to facilitate communications between Federal agencies, to provide standardized structure, and to require agencies to agree to terms before one agency begins performing work for another. The IA form, available through the Department of the Treasury, is comprised of two sections, Part A: General Terms and Conditions (GT&C) and Part B: Order Requirements and Funding Information (Order). Part A identifies general information about the agreement such as the agencies entering into the agreement, the authority permitting the agreement, the start and end date of agreement activities, the scope of the agreement, the terms and conditions, and other required provisions. No fiscal obligations are created through the execution of the GT&C Section. The Director, DPAP, will enter into a Part A agreement with DoE on behalf of the Defense components. The Part A agreement will be posted at [http://www.acq.osd.mil/dpap/cpic/cp/interagency\\_acquisition.html](http://www.acq.osd.mil/dpap/cpic/cp/interagency_acquisition.html).

Part B identifies the specific requesting agency requirements for the delivery of goods and/or services by the Servicing Agency. Part B obligates funds and may be executed only when funds are available for obligation and the request package is complete. A copy of Part A must accompany an executed Part B for each request for support submitted to DoE.

A warranted DoD contracting officer is required to review any DoD request for DoE support in excess of \$100,000 to ensure the request package is adequate and complete. Comptrollers and financial officers shall not release funding if the contracting officer review is not documented in the request package.

Section 801 of the National Defense Authorization Act for 2008, as amended, requires that DoD officials may place an order, make a purchase, or otherwise

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procure property or services through a non-Defense agency only if the head of the non-Defense agency has certified that the agency will comply with Defense procurement requirements. For non-Defense agencies that will not certify compliance, the Director, DPAP, is authorized to make a Determination that it is necessary and in the interest of DoD to continue to utilize the non-conforming agency. As DoE has not certified compliance, the Director, DPAP, executed the attached determination that it is necessary and in the interests of DoD to continue to procure property and services through DoE. Please pay particular attention to the requirements in the last paragraph of the determination.

Questions or comments may be directed to Bob Johnson who is available at [Robert.F.Johnson@Navy.mil](mailto:Robert.F.Johnson@Navy.mil) or 703-693-2936.

  
Elliott B. Branch  
DASN(AP)

Attachments: As stated

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OFFICE OF THE UNDER SECRETARY OF DEFENSE

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ACQUISITION,  
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SEP 30 2011

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION AND PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Department of Defense (DoD)-Wide Policy for Using the Department of Energy's (DoE's) Work for Others (WFO) Program to Access DoE-Owned Research, Development and Production Facilities through Interagency Agreements (IAs) until rescinded.

In December, 2010, the Department of Defense Inspector General (DoDIG) completed an audit, DoD Purchases Made Through the DoE (DoDIG audit Project No. D2009-D000CF-0069-000). The audit was conducted in accordance with the requirements of section 801 of the 2008 National Defense Authorization Act (NDAA) as amended. As a direct result of the audit, and in response to its findings and recommendations, the following policy is imposed, effective October 1, 2011, when entering into Interagency Agreements with the Department of Energy. This policy is in effect until rescinded.

Each component will enter into and administer all DoD WFO projects performed at DoE facilities in accordance with existing statutes, regulation and policy consistent with DoD standards, policies and procedures except as such policies and procedures may be amended by the provisions set forth below, and:

- Ensure that a warranted DoD contracting officer reviews each requirement in excess of \$100K designated for performance by the Department of Energy. The warranted contracting officer will, at a minimum, ensure that supporting documents demonstrate that:
  - Sufficient market research has been completed and sufficient documentation exists that demonstrates that the specific DoE location/center is capable of performing the required tasks;
  - The description of the supplies and/or services to be provided are specific, definite and certain;

- Either an Economy Act D&F (FAR 17.5, DFARS 217.5) has been properly executed for the requirement, or, if the Economy Act is not the authority that DoE will be operating under when executing the requirement then the requirements of DFARS 217.7802(b) have been met and that a “Best Interest Determination” has been executed;
- An Interagency Agreement Part B, in the general format prescribed by the Office of Federal Procurement Policy (OFPP) (June 2008) as amended, has been prepared and executed for the requirement.
- An assessment that the proposed cost/price is reasonable has been performed. At a minimum this will include: an independent government cost estimate (IGCE) prepared by DoD; detailed pricing information (proposal prepared by DoE) that has been reviewed by the cognizant DoD technical project manager/Contracting Officer Representative (COR) to ensure the hours and skill mix proposed are reasonable for the task(s) to be accomplished; an assessment that the quantity and type of materials proposed are necessary and reasonable.
- Each Interagency Agreement documents cost/price reasonableness.
- A qualified DoD technical project manager/COR has been identified to perform Contracting Officer Representative (COR) functions, including monitoring contractor performance, and reviewing contractor invoices.

You are also reminded that in accordance with FAR 17.502, “Interagency Acquisition Under the Economy Act,” the Economy Act may not be used by an agency to circumvent conditions and limitations imposed on the use of funds.

The Director, Defense Procurement and Acquisition Policy, will enter into an Interagency Agreement Part A with DoE on behalf of all DoD Components and will also execute a Section 801 “waiver” for all DoD components for 2012 and 2013.

This policy is effective October 1, 2011, and is in effect until rescinded.

My POC for this is Mr. Michael Canales 703-695-8571 or via e-mail at [michael.canales@osd.mil](mailto:michael.canales@osd.mil).

  
 Richard Ginman  
 Director, Defense Procurement  
 and Acquisition Policy

SEP 30 2011

**Determination in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008), as amended, by the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD(AT&L)] as Delegated to the Director, Defense Procurement and Acquisition Policy, to Continue to Procure Property and Services Through the Department of Energy (DoE) in support of Department of Defense (DoD) Components for Fiscal Years 2012 and 2013.**

- Public Law 110-181, section 801, "Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies," at subsection (b)(1) allows an acquisition official of the Department of Defense to place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold (typically \$100,000) through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- The Department of Defense Inspector General (DoDIG) recently conducted an audit at multiple Department of Energy (DoE) laboratories and other locations. DoDIG findings do not warrant limiting DoD's use of DoE support. The Department of Energy has not certified in accordance with section 801 requirements. Based on the requests of the components, the Department needs to continue to procure supplies and services through DoE. Therefore, it is my determination that it is necessary and in the interest of the Department to continue to procure property and services through DoE. I authorize all DoD components to utilize the services of DoE for the procurement of essential mission related requirements only.
- This determination is valid for DoD requirements for fiscal year 2012 to be placed through September 30, 2012, executed on behalf of DoD by DoE, up to a total amount of \$2.5B annually. Each component utilizing the assisted acquisition services of DoE is directed to maintain sufficient tracking records of amounts provided to DoE, and to provide them on a monthly basis to the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. In addition, each component is required to ensure that all affected Department of Defense contract files are documented and available for review or audit by the Department of Defense Inspector General.

  
Richard Ginman  
Director, Defense Procurement  
and Acquisition Policy