

Approved: 12-5-2016

SUBJECT: STRATEGIC PARTNERSHIP PROJECTS [FORMERLY KNOWN AS WORK FOR OTHERS (NON-DEPARTMENT OF ENERGY FUNDED WORK)]

1. **OBJECTIVES.** Strategic Partnership Projects (SPP) [formerly known as “Work for Others” (WFO)] is work performed for non-Department of Energy (DOE) entities by DOE/National Nuclear Security Administration (NNSA) personnel and/or their respective contractor personnel or the use of DOE/NNSA facilities for work that is not directly funded by DOE/NNSA appropriations. SPP have the following objectives (DOE recognizes that individual projects may not meet all of the objectives).
 - a. Provide assistance to Federal agencies and non-Federal entities in accomplishing goals that may be otherwise unattainable and to avoid duplication of effort at Federal facilities.
 - b. Provide access to DOE/NNSA highly specialized or unique facilities, services, or technical expertise to non-DOE/non-NNSA entities when private sector facilities are inadequate.
 - c. Increase research and development interactions between DOE/NNSA facilities and industry to provide opportunities for transferring technology originating at DOE/NNSA facilities to industry for further development or commercialization.
 - d. Assist in maintaining core competencies and enhancing the science and technology base at DOE/NNSA facilities.
2. **CANCELLATION.** DOE O 481.1C, *Work for Others (Non-Department of Energy Funded Work)*, dated 1-24-05 is canceled.
3. **APPLICABILITY.**
 - a. **DOE Organizations, Including National Nuclear Security Administration (NNSA).** Except for the exclusions in paragraph 3.c, the provisions of this Order apply to all DOE Organizations authorizing work under a SPP agreement as provided by law or contract and as implemented by the appropriate DOE/NNSA contracting officer or authorized designee.
 - b. **DOE Contractors.** This Order does not apply to contractors.
 - c. **Exclusions.** This Order does not apply to the following:
 - (1) Services, products, or materials regularly produced for sale at scheduled rates under Departmental programs (e.g., routine irradiation services, isotopes, heavy water, transmission of electricity, uranium enrichment services, Naval Petroleum Reserve oil sales).

- (2) Work performed by non-DOE/non-NNSA contractor personnel at a DOE-approved user facility (e.g., the National Synchrotron Light Source 2).
 - (3) Activities funded under the Contributed Funds Act of 1921 [Title 43 United States Code (U.S.C.) 395] or emergencies involving the protection of life, Federal lands, buildings, or equipment or law enforcement, disaster assistance, or production and maintenance of the power distribution system.
 - (4) DOE/NNSA-funded work or services performed by one DOE/NNSA site/facility management contractor for another.
 - (5) Visits or assignments of foreign nationals to DOE/NNSA facilities.
 - (6) Consulting services by employees not identifying themselves as DOE/NNSA or DOE/NNSA site/facility management contractor representatives.
 - (7) Cooperative Research and Development Agreements (CRADAs) performed under the National Competitiveness Technology Transfer Act of 1989.
 - (8) Work for the NNSA Naval Nuclear Propulsion Program.
 - (9) Assignments under the Intergovernmental Personnel Act of 1970 (5 U.S.C. §§ 3371-3375).
 - (10) Work directly funded by the Department of Homeland Security as defined in DOE O 484.1, *Reimbursable Work Performed for the Department of Homeland Security*, dated 8-17-06.
 - (11) Agreements for Commercializing Technology (ACT).
 - (12) Consistent with Secretarial Delegation Order Number 00-033.00A to the Administrator and Chief Executive Officer, Bonneville Power Administration, this Directive does not apply to Strategic Partnership Projects performed at Bonneville Power Administration.
4. **REQUIREMENTS.** It is Departmental policy that DOE/NNSA resources are made available to non-DOE/non-NNSA entities when private facilities are inadequate. Requirements of DOE/NNSA directives, applicable regulations, and the following requirements must be satisfied before work is performed.
- a. In operating DOE/NNSA Federally Funded Research and Development centers (FFRDCs) or other facilities, a contractor may not respond to Requests For Proposals (RFPs) or other procurement solicitations from another Federal agency

or non-Federal entity that involves head-to-head competition with other solicitation respondents as an offeror, team member, or subcontractor to an offeror.

- b. A DOE/NNSA site/facility management contractor operating an FFRDC or other DOE/NNSA facility may respond to Broad Agency Announcements, financial assistance solicitations, Program Research and Development Announcements, and similar solicitations from other Federal agencies or non-Federal entities when the following conditions have been met:
 - (1) Response to the solicitation does not result in head to head competition with other solicitation respondents as an offeror, team member, or subcontractor to an offeror.
 - (2) The cognizant field office has been notified of intent to respond.
 - (3) The solicitation is a general research announcement used for the acquisition of basic or applied research to further advance scientific knowledge or understanding rather than focused on a specific system or hardware solution.
 - (4) Evaluation and selection is performed through a merit or peer review process using pre-established general selection criteria.
 - (5) The primary bases for selection include quality of the scientific/ technical approach, importance to the Agency, and funds availability.
- c. The following determinations and a written certification of their completion must be made prior to the acceptance of a SPP project (see paragraph 8.a). The proposed work—
 - (1) is consistent with or complementary to missions of DOE/NNSA and the facility to which the work is to be assigned,
 - (2) will not adversely impact DOE/NNSA programs assigned to the facility,
 - (3) will not place the facility in direct competition with the domestic private sector, and
 - (4) will not create a detrimental future burden on DOE/NNSA resources.

For work performed under a DOE or NNSA contract the cognizant Contracting Officer (CO) must ensure the determinations are made and provide the written certification. For work performed at Headquarters, the DOE/NNSA Program Secretarial Officer (PSO), or designee to whom written delegation has been provided pursuant to 5.i(4) must ensure the determinations are made and provide

the written certification. In all cases the determination and certification process is an inherently governmental function and may not be delegated to a contractor.

- d. In addition to paragraph 4.c, above, all Federal agency sponsors must provide on or with the funding document a written statement [example below] confirming that—
- (1) the requesting Agency has determined that entering into an SPP agreement with DOE/NNSA complies with the requirements of the Economy Act of 1932, as amended (31 U.S.C. 1535), or other applicable authorizations [e.g., Executive Order (E.O.) 12333];
 - (2) the requesting Agency has determined that entering into an SPP agreement with DOE/NNSA complies with competition requirements in Federal Acquisition Regulation (FAR) Part 6, section 6.002, Limitations; and
 - (3) to the best of the requesting Agency's knowledge, the work will not place DOE/NNSA and their contractor in direct 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 U.S.C. 1535,) or other statutory authority and adheres to Federal Acquisition Regulation (FAR) 6.002. To the best of our knowledge, the work requested will not place DOE/NNSA and its contractor in direct competition with the domestic private sector.

- e. The requirements of paragraphs 4.a–4.d must be met before a SPP agreement can be accepted or before modifications outside the scope of an existing SPP agreement can be approved.

NOTE: For previously approved work with schedule and/or cost changes but no change in scope, reapplying the determinations and certification process is not required.

- f. Pricing of work and biennial reviews of prices and charges of materials and services must be in accordance with DOE O 522.1, *Pricing of Departmental Materials and Services*, dated 11-03-04.
- g. Before SPP construction that exceeds \$10 million at a DOE site can begin, approval must be granted by the cognizant DOE Cognizant Secretarial Officer (CSO) 5.j(3) and the DOE Chief Financial Officer 5.b(4). The CFO must be notified seven days in advance of approval of a construction project funded through an SPP agreement that exceeds \$1 million but is less than \$10 million.

For a NNSA site, approval for SPP construction that exceeds \$10 million must be granted by the Associate Administrator for Acquisition and Project Management 6.f(6) and Associate Administrator for Management and Budget 6.a(3) and notification provided to the NNSA Director, Office of Field Financial Management 6.b(4) before work can begin. Projects must meet the following requirements:

- (1) Construction projects must be performed according to requirements of DOE O 413.3B, Program Project Management for the Acquisition of Capital Assets, dated, 11-29-10.
 - (2) Upon completion, title to permanent construction work must vest in DOE/NNSA.
 - (3) Construction funded through SPP agreements must not supplement DOE-funded construction activities unless the SPP-funded portion of the construction effort is explicitly approved by the CFO.
- h. Equipment acquired as part of a project must be accounted for and maintained in the same manner as DOE/NNSA property. Disposition of equipment must be as previously agreed or as instructed by the sponsor. Equipment shipping costs are the responsibility of the sponsor.
- i. The DOE/NNSA contractor must select the subcontractor and the work to be subcontracted. Subcontracted work must be in direct support of the DOE/NNSA contractor.
- j. Intelligence and Intelligence-related projects (defined in paragraph 8.i) must be conducted in accordance with—
- (1) Executive Order 12333, as amended
 - (2) Other Executive Orders and Presidential Directives,
 - (3) U.S. laws,
 - (4) Intelligence Community Directives,
 - (5) Remaining Director, Central Intelligence, Directives, and
 - (6) DOE's "*Procedures for Intelligence Activities.*"¹
 - (7) (7) *Department of Energy Delegation Order No. 00-020.00A to the Director of Intelligence and Counterintelligence*, dated March 19, 2013, and subsequent revisions.

¹ DOE's "Procedures for Intelligence Activities" are approved by the Office of the Attorney General.

- k. Special Access Program (SAP) work requires the approval of the DOE SAP Oversight Committee. Intelligence SAPs will be reviewed and approved by the Director, Office of Intelligence and Counterintelligence 5.f(1).
- l. Work directly funded by a foreign sponsor and performed at a DOE (non-NNSA facility) requires the review and concurrence of the Office of International Affairs 5.c, the CSO 5.j(4)(c) and the cognizant PSO or designee 5.i(2). Notification of the work must be provided to the appropriate Headquarters or Field component of the Office of Intelligence and Counterintelligence.
- m. Work directly funded by a foreign sponsor and performed at an NNSA facility requires review and concurrence by the DOE Office of International Affairs 5c. The field office will notify the NNSA Principal Deputy Administrator or designee (NNSA Office of Strategic Partnership Programs) 6.f(6) and Office of Intelligence and Counterintelligence (DOE-IN).
- n. SPP agreements involving human, including their identified data and bio-specimens, or animal subjects, whether performed domestically or in an international environment, regardless of the classification level, must comply with Federal regulations and DOE/NNSA directives/requirements for human or animal subject protection. For intelligence and intelligence-related projects involving human subjects, these projects are reviewed by the Central DOE Institutional Review Board – Classified (IRB-C). See DOE O 443.1B, Chg. 1 and DOE N 443.1, for the applicable requirements when conducting human subject research.
- o. Work that involves research, development or production of radioisotope or fission systems or their components, when the potential ultimate application is to produce power or propulsion in space or to produce terrestrial power for national security or defense applications under the Atomic Energy Act authority (i.e. not NRC-licensed), at non-NNSA facilities requires the concurrence of the Director, Office of Space and Defense Power Systems (see paragraph 5.h.) Such work, when performed at an NNSA facility, requires concurrence of the NNSA Office of Strategic Partnership Programs 6.g and will be coordinated with the Director, Office of Space and Defense Power Systems and notification provided to the Office of Space and Defense Power Systems when accepted.
- p. Cost estimates for federally sponsored SPP must specifically identify the amount of laboratory directed research and development (LDRD) funds to be collected as part of the project costs. The following language must be included in each SPP reimbursable agreement unless a formal agreement regarding LDRD funding has been reached between DOE/NNSA and the sponsoring Federal agency.

“Consistent with the Department of Energy’s (DOE’s) full cost recovery policy, DOE collects, as part of its standard indirect cost rate, a laboratory directed research and development (LDRD) cost. Based on the amount of funds accepted

for this project, \$_____ represents an estimated amount that will be used for LDRD.”

5. RESPONSIBILITIES—NON-NNSA ENTITIES WITHIN DOE. In keeping with Title 50 U.S.C. § 2401, SPP responsibilities have been separated into DOE organizational responsibilities, below, and NNSA organizational responsibilities in paragraph 6,

a. Office of Management.

- (1) Establishes, in conjunction with Cognizant Secretarial Officers (CSO) and NNSA officials², DOE SPP policies.
- (2) Approves requests for excluding non-NNSA SPP agreements from requirements of this Order including in cases of national emergency [for NNSA exclusions, see paragraph 6.b(5)].
- (3) Develops, maintains, and updates the standard SPP agreement for non-Federal sponsors. (Refer to DOE M 481.1-1A, *Reimbursable Work for Non-Federal Sponsors Process Manual*, dated 9-28-01.)

b. Chief Financial Officer.

- (1) Establishes and maintains DOE SPP financial policies and procedures.
- (2) Develops and maintains financial information on SPP and prepares financial reports as necessary.
- (3) Coordinates with responsible Cognizant Secretarial Officers to ensure the availability of funds for SPP accepted and performed at Headquarters.
- (4) Concurs on construction projects funded by a SPP agreement that exceed \$10 million.
- (5) Establishes and assigns required SPP values in the DOE accounting system and coordinates with the Field CFOs on these matters.

c. Office of International Affairs. Reviews and concurs on all SPP agreement requests to be directly funded by foreign sponsors to ensure consistency with international agreements and foreign policy objectives.

d. DOE General Counsel/Field Counsel.

- (1) Provides legal advice and representation on SPP agreement issues.

²NNSA officials whose responsibilities parallel those of DOE Secretarial Officers are Deputy Administrators and Assistant Deputy Administrators.

- (2) Establishes policy on patent and technical data.
 - (3) Advises on patent and technical data contract clauses.
 - (4) Approves waiver of patent rights.
- e. Associate Director, Office of Biological and Environmental Research. Acts as the DOE Institutional Official for the Protection of Human Subjects in Research and is the Secretary's designee to oversee the DOE/NNSA's Protection of Human Subjects in Research.
- (1) In consultation with NNSA, oversees the implementation of the DOE system to ensure that all human subject research complies with established Federal regulations and DOE directives/requirements.
 - (2) Coordinates with DOE-IN on all Intelligence and Intelligence-related human subjects SPP, regardless of funding source or classification.
 - (3) Oversees the implementation of animal research protection.
- f. Director, Office of Intelligence and Counterintelligence (DOE-IN).
- (1) Manages, reviews, and approves proposed intelligence and intelligence-related SPP including intelligence SAPs pursuant to 4.j in coordination with the appropriate field office manager or designee.
 - (2) Coordinates program review of intelligence and intelligence-related SPP with the participation of appropriate Field Intelligence Elements (defined in paragraph 8.f) and field office manager or designee.
 - (3) Reviews intelligence and intelligence-related SPP for duplication of effort if duplication is not requested by the sponsor.
 - (4) Serves as central point of contact for coordination with sponsors of intelligence and intelligence-related SPP.
 - (5) Informs, if applicable, the Cognizant Secretarial Officer, e.g. the Director of Science of problems with intelligence and intelligence-related SPP.
 - (6) Conducts counterintelligence review of SPP agreements funded by a foreign sponsor.
- g. NNSA Assistant Deputy Administrator, Office of Nonproliferation Research and Engineering. Reviews and concurs on SPP nuclear nonproliferation detection technology projects.

- h. Director, Office of Space and Defense Power Systems. Concurs on proposals involving radioisotope or fission systems or their components, when the potential ultimate application is to produce electric power or propulsion in space or to produce terrestrial power for defense or national security applications under DOE Atomic Energy Act authority (i.e. not NRC-licensed) at non-NNSA facilities; coordinates with NNSA on such work at NNSA facilities. This excludes fusion, weapons-related activities and naval propulsion reactors.
- i. Program Secretarial Officers.
 - (1) Accepts Headquarters accepted SPP agreements in accordance with the requirements of paragraph 4.c. Once accepted, forwards copies of all information to the cognizant CO to approve placement of work and funding onto the contract where the work will be performed. For work accepted and performed at Headquarters copies of all information and decision documentation should be maintained and available by the accepting office.
 - (2) Reviews and concurs on foreign-sponsored SPP agreements to ensure the use of program developed technologies is acceptable for the purpose of the SPP agreement.
 - (3) Ensures SPP work performed at Headquarters involving human and/or animal subjects is compliant with established Federal regulations and DOE directives/requirements for protection of these subjects.
 - (4) Approves written delegations of authority for completing the determinations and certification process for Headquarters accepted SPP agreements consistent with 4.c.
- j. Cognizant Secretarial Officers.
 - (1) Develop and recommend changes in SPP policies to the Director, Office of Management or Office of the Chief Financial Officer.
 - (2) Notify other Secretarial Officers of significant or sensitive SPP agreements.
 - (3) After obtaining concurrence from the Office of the Chief Financial Officer, approve facility construction that exceeds \$10 million.
 - (4) For DOE facilities under their cognizance--
 - (a) Approve or designate the Head of the Field Element to approve annual SPP levels and requests for increases.

- (b) Conduct periodic reviews of field office SPP agreement review and approval systems using a risk based management approach. The approach shall ensure that: 1) a CSO approved risk based schedule is established that ensures sites are reviewed no less than every five years; 2) sites with higher levels of identified risk will be reviewed more frequently; and 3) reviews include assessment of review and approval procedures to ensure compliance with DOE-wide SPP policies and procedures.
- (c) Review and concur in foreign sponsored SPP agreements.
- (d) Provide copies of approved annual SPP levels to other program organizations as requested.

k. Heads of DOE Field Elements.

- (1) Manage site-specific SPP agreement review, approval and oversight functions to ensure SPP actions at facilities under their purview are consistent with DOE SPP policies and procedures.

NOTE: In this capacity, Heads of Field Elements are accountable to the Cognizant Secretarial Officers.

- (2) Develop and implement procedures for review, acceptance, authorization, and monitoring of SPP agreements consistent with DOE policies and procedures and encourage parallel review and processing by DOE, the sponsor, and the site/facility management contractor.
- (3) For facilities under their purview—
 - (a) Recommends annual SPP funding levels for the CSOs approval, or if delegated, notify the CSO of the approved funding level.
 - (b) Monitors SPP funding levels to ensure consistency with approved funding levels and
 - (c) Submits requests for funding level increases to the CSOs for approval or if delegated this authority by the CSO notify the CSO of the approved increase.
- (4) Notify the CSO of SPP agreements that involve sensitive subjects.
- (5) Ensure that DOE and/or contractor representatives review proposed SPP agreements that involve human and/or animal subjects for compliance with established Federal regulations and DOE directives/requirements for protecting these subjects.

- (6) Ensure that information generated pursuant to SPP under their purview is protected in accordance with applicable DOE security, safeguards, and classification and controlled unclassified information policies; site security plans; and supplemental security plans specific to the projects.
- (7) Ensure that DOE and contractors review projects for compliance with the National Environmental Policy Act of 1969 and other environment, safety, and health requirements.
- (8) Ensure that the appropriate Headquarters element per the order is involved in the SPP agreement review process.
- (9) Establish and implement closeout procedures for SPP agreements.
- (10) Ensure that resulting scientific and technical information is disseminated consistent with existing DOE Orders and regulations.
- (11) Establish performance measures to assess the effectiveness of the procedures for review, acceptance authorization, and monitoring of SPP agreements.
- (12) Ensure that a summary of each active SPP agreement is maintained. At minimum, the information should include—
 - (a) project title and description,
 - (b) sponsoring Entity,
 - (c) assigned laboratory or contractor,
 - (d) field points of contact,
 - (e) total estimated cost, and
 - (f) estimated start and completion dates.
- (13) Ensure that project information documenting policy compliance is maintained by DOE and/or the performing contractor.
- (14) In coordination with CSO, submit to the Director, Office of Management requests to grant exclusions from the requirements of this Order for non-NNSA projects.
- (15) Ensure that projects directly funded by foreign sponsors and performed at non-NNSA sites are reviewed, have the concurrence of the Office of International Affairs, appropriate Program Secretarial Office, CSO and are

coordinated with the appropriate Headquarters or field component of the Office of Intelligence and Counterintelligence

- (16) Assess and approve delegation of authority to contractors for executing agreements with non-Federal entities consistent with DOE-approved standard terms and conditions and satisfy the requirements of this Order and DOE M 481.1-1A.

6. RESPONSIBILITIES—NNSA ORGANIZATIONS.

a. Associate Administrator for Management and Budget.

- (1) Working in coordination with the DOE Office of Management, and other Program Secretarial Officers, establishes DOE SPP agreement policies.
- (2) Develops and implements SPP agreement procedural guidance for NNSA organizations.
- (3) After notifying the Office of Field Financial Management, approves facility construction that exceeds \$10 million.

b. NNSA Director, Office of Field Financial Management.

- (1) Conducts periodic reviews of the implementation of this Order by NNSA headquarters and heads of field elements
- (2) Develops and maintains financial information on SPP agreements and prepares financial reports as necessary.
- (3) Coordinates with responsible Deputy Administrators (DAs) to ensure the availability of funds for SPP agreements accepted and performed at Headquarters.
- (4) Provides notification to the Cognizant Deputy Administrator on construction projects that exceed \$10 million.
- (5) Approves requests for excluding SPP agreements from requirements of this Order including in cases of national emergency for NNSA sites in coordination with the DOE Director, Office of Management.
- (6) Provides concurrence in the development and updating of the standard SPP agreement for non-Federal sponsors (DOE M 481.1-1A).

c. NNSA Office of the General Counsel or NNSA Field Counsel.

- (1) Provides legal advice and representation on issues related to SPP agreements.

- (2) Establishes policy on patent and technical data in coordination with the DOE Assistant General Counsel for Technology Transfer.
 - (3) Advises on patent and technical data clauses of contracts in coordination with the DOE Assistant General Counsel for Technology Transfer.
 - (4) Coordinates the approval of waiver of patent rights with the DOE Assistant General Counsel for Technology Transfer.
- d. Director, Office of Intelligence and Counterintelligence (DOE-IN).
 - (1) Manages, reviews, and approves proposed intelligence and intelligence-related SPP including intelligence SAPs pursuant to 4.j in coordination with the appropriate field office manager or designee.
 - (2) Coordinates program review of intelligence and intelligence-related SPP with the participation of appropriate Field Intelligence Elements 8.f and field office manager or designee.
 - (3) Reviews intelligence and intelligence-related SPP for duplication of effort if duplication is not requested by the sponsor.
 - (4) Serves as central point of contact for coordination with sponsors of intelligence and intelligence-related SPP.
 - (5) Inform, if applicable, the Cognizant Secretarial Officer (e.g., NNSA Administrator) and Field Office Manager of problems with intelligence and intelligence-related SPP, at sites under the FOM and CSO's cognizance.
- e. NNSA Assistant Deputy Administrator, Office of Nonproliferation Research and Engineering. Reviews SPP agreements involving nuclear nonproliferation detection technology projects and provides comments to the NNSA Office of Strategic Partnership Programs for possible action in coordination with the relevant field office.
- f. NNSA Principal Deputy Administrator. Responsible for oversight of SPP agreements at NNSA sites through the NNSA Office of Strategic Partnership Program. Responsibilities include the following and may be further delegated.
 - (1) Develop and recommend changes in SPP policies to the NNSA Associate Administrator for Management and Budget.
 - (2) Accepts Headquarters accepted SPP agreements in accordance with the requirements of paragraph 4.c for NNSA. Once accepted, copies of all information should be forwarded to the cognizant CO to approve placement of work and funding onto the contract where the work will be

performed. For work performed at Headquarters, copies of all information and decision documentation should be maintained and available.

- (3) Review and concur in foreign-sponsored SPP that use NNSA program developed technologies and sites.
- (4) Ensure work performed at Headquarters involving human or animal subjects complies with established Federal regulations and NNSA directives/requirements for the protection of these subjects.
- (5) Notify appropriate Secretarial Officers of significant or sensitive SPP agreements.
- (6) After obtaining notification from the Director, Office of Field Financial Management, approve facility construction that exceeds \$10 Million.
- (7) For NNSA facilities:—
 - (a) Approve or designate the head of the Field element to approve annual SPP levels and requests for increases to approved levels
 - (b) Conduct periodic reviews of site office SPP agreement review and approval systems using a risk based management approach. The approach shall ensure that: 1) a DA approved risk-based schedule is established that ensures sites are reviewed no less than every five years; 2) sites with higher levels of identified risk will be reviewed more frequently; and 3) reviews include assessment of review and approval procedures to ensure compliance with DOE-wide SPP policies and procedures.
 - (c) Approves requests for excluding non-NNSA SPP agreements from requirements of this Order including in cases of national emergency for NNSA sites.

g. NNSA Office of Strategic Partnership Programs.

- (1) Establishes with the Office of Management and Cognizant Secretarial Officers DOE SPP policies.
- (2) Reviews and concurs in foreign sponsored SPP agreements to ensure that work is appropriate for performance at NNSA sites and to ensure the use of program developed technologies is acceptable for the purpose of the SPP agreement.
- (3) Ensures that SPP work performed involving human subjects, including their identified data and bio-specimens, is compliant with established Federal regulations and DOE directives/requirements for protection of

these subjects, working closely with NNSA's Human Subjects Research Program Manager and the DOE Institutional Official for the Protection of Human Subjects in Research.

- (4) Provide copies of approved annual SPP levels to other program organizations as requested.
- (5) Concurs on work that involves research, development or production of radioisotope or fission systems or their components as described in 4.0 when performed at an NNSA facility in coordination with the Director, Office of Space and Defense Power Systems, and provides notification to the Office of Space and Defense Power Systems of any accepted work described above.

h. Field Office Managers.

- (1) Responsible for oversight and management of all SPP activities conducted at their sites.
- (2) Develop and implement procedures for SPP review, acceptance, authorization, monitoring, and closeout, consistent with NNSA policies and procedures.
- (3) Encourage parallel review and processing by NNSA, the sponsor, and the site/facility management contractor.
- (4) For facilities under their purview—
 - (a) Recommend annual SPP funding levels for the NNSA Principal Deputy Administrator's (PDA) approval, or if delegated, notify the PDA of the approved funding level,
 - (b) Monitor SPP funding levels to ensure consistency with approved funding levels, and
 - (c) Submit requests for level increases for the PDA's approval or if delegated notify the PDA of the approved funding level.
- (5) Notify the NNSA Principal Deputy Administrator of SPP agreements that involve sensitive subjects.
- (6) Ensure that NNSA and/or contractors review proposed SPP agreements involving human, including their identified data and bio-specimens, or animal subjects for compliance with established Federal regulations and NNSA directives/requirements for protecting these subjects.

- (7) Ensure that SPP under their purview are protected in accordance with applicable NNSA security, safeguards, classification, and controlled unclassified information policies; site security plans; and supplemental security plans specific to the project.
- (8) Ensure that NNSA and contractors review SPP for compliance with the National Environmental Policy Act of 1969 and other NNSA environment, safety, and health requirements.
- (9) Coordinate with the NNSA Office of Strategic Partnership Programs to ensure that appropriate Headquarters elements are involved in the review process.
- (10) Establish and implement closeout procedures for SPP. Ensure that resulting scientific and technical information is disseminated consistent with existing DOE/NNSA Orders and regulations.
- (11) Establish performance measures to assess the effectiveness of the procedures for SPP review, acceptance, authorization and monitoring consistent with NNSA policies and procedures.
- (12) Ensure that a summary of each active SPP agreement is maintained. At minimum, the information should include—
 - (a) project title and description,
 - (b) sponsoring Entity,
 - (c) assigned laboratory or contractor,
 - (d) field points of contact,
 - (e) total estimated costs, and
 - (f) estimated start and completion dates.
- (13) Ensure that project file information documenting policy compliance is maintained by NNSA and/or the performing contractor.
- (14) Submit to the Principal Deputy Administrator requests for exclusion from requirements of this Order.
- (15) Ensure that projects directly funded by foreign sponsors and performed at NNSA sites are reviewed and have concurrence from the DOE Office of International Affairs 5.c. The field office will notify the NNSA Principal Deputy Administrator 6.f(6) or designee (NNSA Office of Strategic

Partnership Programs) and the Office of Intelligence and Counterintelligence (DOE-IN) of foreign-sponsored work.

- (16) Provide notification of SPP agreements involving nuclear nonproliferation detection technology projects to the NNSA Assistant Deputy Administrator, Office of Nonproliferation Research and Engineering.
- (17) Assess and approve delegation of authority to the contractor for executing contracts with non-Federal entities consistent with DOE-/NNSA-approved standard terms and conditions and in compliance with the requirements of this Order and DOE M 481.1-1A.

7. REFERENCES.

- a. DOE O 522.1, *Pricing of Departmental Materials and Services*, dated 11-03-04, which establishes requirements and assigns responsibilities for setting and conducting biennial reviews of the prices and charges for materials or services sold or provided by DOE, either directly or through site/facility management contractors, to organizations and persons outside DOE/NNSA.
- b. DOE O 241.1B, *Scientific and Technical Information Management*, dated 12-13-10, which establishes requirements and assigns responsibilities to ensure that scientific and technical information emanating from DOE research is appropriately identified, processed, disseminated, and preserved.
- c. DOE O 443.1B Change 1 *Protection of Human Research Subjects*, dated 4-21-16, which establishes the procedures and responsibilities for implementing the policy and requirements established in 45 CFR Part 46 10 CFR Part 745 and in DOE P 443.1.
- d. DOE N 443.1 *Protection of Human subjects in Classified Research*, dated 1-21-16, supplements DOE O 443.1B for research that is classified in whole or in part.
- e. DOE Order 457, 1A, *Nuclear Counter Terrorism*, dated 8-26-23, support for DOE activities for health, safety, and common defense by reducing the threat of inadvertent or unauthorized disclosure of sensitive improvised nuclear device (IND) information.
- f. DOE O 471.1B, *Identification and Protection of Unclassified Controlled Nuclear Information*, dated March 1, 2010, which provides requirements and responsibilities for identifying Unclassified Controlled Nuclear Information and protecting it from unauthorized dissemination.
- g. DOE O 471.3, *Identifying and Protecting Official Use Only Information*, Admin Change 1, dated January 13, 2011, which establishes a program within DOE and NNSA to identify certain unclassified controlled information as Official Use Only (OUO) and to identify, mark, and protect documents containing such information.

- h. DOE O 471.5, *Special Access Program Policies, Responsibilities, and Procedures*, dated 03-29-11, which delineates policies, responsibilities, and procedures for SAP projects.
- i. DOE O 475.2B, *Identifying Classified Information*, dated 10-03-14, which specifies responsibilities, authorities, policies, and procedures for management of the DOE Classification System.
- j. DOE M 481.1-1A Chg. 1, *Reimbursable Work for Non-Federal Sponsors Process Manual*, dated 1-03-01, which defines requirements for performance of work for non-DOE/non-NNSA entities by DOE/NNSA and contractor personnel and for use of DOE/NNSA facilities for work that is not directly funded by DOE/NNSA appropriations
- k. *Department of Energy Financial Management Handbook*, dated 4-21-15, Chapter XIII, Reimbursable Work, Revenues, and Other Collections, which establishes DOE-/NNSA-wide financial policy and procedural guidance for certain interagency reimbursable actions and reimbursable actions with non-DOE/non NNSA entities.
- l. *DOE Procedures for Intelligence Activities*, which provide supplemental guidance/requirements for the conduct of intelligence and intelligence-related work.
- m. The Atomic Energy Act of 1954 (P.L. 83-303), as amended (42 U.S.C. 2011 et seq.), Sections 31, 32, and 33, which authorize the conduct of research and development and certain training activities for non-DOE/non-NNSA 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.
- n. The Contributed Funds Act of 1921 (43 U.S.C. 395), which permits contributions from a non-Federal participant or partner toward the cost of a project.
- o. The Economy Act of 1932, as amended (31 U.S.C. 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.
- p. The Energy Reorganization Act of 1974 (P.L. 93-438), Section 205 (42 U.S.C. 5845), which requires Federal agencies to furnish to the NRC, on a reimbursable basis, such research services as NRC deems necessary and requests for the performance of its function.
- q. The Intergovernmental Cooperation Act of 1968, as amended, (31 U.S.C. 6505), which authorizes Federal agencies to perform work for State and local

governments in accordance with the requirements of Office of Management and Budget (OMB) Circular A-97.

- r. The National Competitiveness Technology Transfer Act of 1989 (P.L. 101-189), Sections 3131, 3132, 3133, and 3159, which prescribe technology transfer as a DOE mission.
- s. The National Environmental Policy Act of 1969 (P.L. 91-190), which encourages efforts to prevent or eliminate damage to the environment.
- t. The National Defense Authorization Act for Fiscal Year 2000 (P.L. 106-65), dated Title XXXII, as amended, which establishes NNSA responsibilities.
- u. The Stevenson-Wydler Technology Innovation Act of 1980 (P.L. 96-480), as amended, Section 11, which states as public policy that the Federal Government must strive to transfer Federally owned or originated technology to State and local governments and the private sector.
- v. Executive Order 12333, *United States Intelligence Activities*, as amended, part 1.13, which establishes responsibilities for DOE to support the U.S. intelligence community by providing expert technical, analytical, and research capability to others within the intelligence community and by anticipating how DOE can contribute to the formulation of intelligence collection and analysis requirements.
- w. FAR 17.5, "Interagency Agreements," which prescribes policies and procedures for a Federal agency to obtain supplies or services from another Federal agency.
- x. FAR 17.7, "Interagency Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense," which prescribes policies and procedures specific to acquisitions of supplies and services by non-defense agencies on behalf of the Department of Defense.
- y. FAR 35.017, "Federally Funded Research and Development Center" (FFRDCs), which establishes Government-wide policies for review and termination of FFRDCs.
- z. OMB Circular A-97, which defines rules and regulations permitting Federal agencies to provide specialized or technical services to State and local units of government under Title III of the Intergovernmental Cooperation Act of 1968.
- aa. Title 45 of Code of Federal Regulations (CFR) part 46, "Federal Policy for the Protection of Human Subjects," which sets forth Federal regulations for protection of human subjects involved in research activities.
- bb. Title 10 Code of Federal Regulations (CFR) Part 745, "Protection of Human Subjects," which sets forth DOE's directives/regulations for protecting human subjects involved in research activities.

- cc. *Department of Energy Delegation Order No. 00-020.00A to the Director of Intelligence and Counterintelligence*, dated March 19, 2013, and subsequent revisions.
8. **DEFINITIONS.** The following terms apply to SPP conducted through DOE/NNSA and their contractors.
- a. Acceptance. The official signing of a reimbursable agreement (e.g., bilateral sales contract or interagency agreement) by a cognizant DOE/NNSA contracting officer or a federal official with delegated authority to commit DOE/NNSA and/or their contractors to perform strategic partnership projects.
 - b. Bilateral Sales Contract. A binding agreement that commits DOE, NNSA or a DOE/NNSA site/facility management contractor to perform work for a non-Federal entity. Agreements with non-federal customers require bilateral sales contracts.
 - c. Cognizant Secretarial Officers/NNSA Principal Deputy Administrator. Headquarters Assistant Secretaries, Deputy Administrator and Directors responsible for oversight or institutional management of DOE/NNSA facilities.
 - d. DOE Institutional Official for the Protection of Human Subjects in Research. Senior official delegated by the Secretary (DOE O 443.1B, Chg. 1) to oversee the DOE/NNSA's Protection of Human Subjects in Research.
 - e. Facility/Site Management Contractors. Operate and maintain Government-owned facilities under contract with and for the benefit of DOE/NNSA.
 - f. Field Intelligence Element (FIE). An intelligence component of the DOE-IN Field Intelligence Enterprise, which includes Management and Operating contractors and subcontractor employees located at DOE/NNSA facilities that provide products and services to DOE, the Intelligence Community (IC), and non-IC Federal agencies. FIE Directors are approved by the Director of DOE-IN and have responsibility for compliance and oversight of all intelligence and intelligence-related SPP at the DOE/NNSA facility in coordination with the field office manager.
 - g. Heads of Field Elements/Field Office Managers. Officials who direct activities of DOE/NNSA field or site offices and field organizations reporting directly to Headquarters. NNSA FOMs serve as line management, site-level mission integrators, and as the authorizing officials for activities at the site on behalf of the Administrator
 - h. Human Subjects. Living individuals about whom a researcher obtains data through intervention or interaction with the individual or through identifiable information.

- i. Intelligence and Intelligence-Related SPP.
 - (1) Intelligence projects are sponsored by an organization identified in Executive Order 12333 as an element of the Intelligence Committee and funded by either the National Intelligence Program or the Military Intelligence Program and within the authorities of that organization in accordance with Executive Order 12333, applicable U.S. laws, other Executive Orders, Presidential Directives, Intelligence Community Directives, and DOE *Procedures for Intelligence Activities*;
 - (2) Intelligence-related projects are sponsored by non-Intelligence Community Federal agencies, regardless of appropriation type, utilizing DOE's authorities under Executive Order 12333 applicable U.S. laws, other Executive Orders, Presidential Directives, Intelligence Community Directives, and DOE *Procedures for Intelligence Activities*; and
 - (3) Activity for which the cognizant technical DOE Headquarters official is the Director, Office of Intelligence and Counterintelligence.
- j. Interagency Agreement. Provides the statement of work, terms and conditions, funding, billing, and payment data in support of a reimbursable agreement. The format of the requesting Agency is acceptable as long as it contains the appropriate elements as outlined in this Order.
- k. Non-DOE/non NNSA Entities. Federal agencies; State, regional, and local governments; private or commercial firms; not-for-profit organizations; international organizations; and foreign governments.
- l. Program Secretarial Officers and Deputy NNSA Administrators. Headquarters Assistant Secretaries, Deputy Administrators, and Directors who have management responsibility for program planning, budgeting, and execution, of DOE/NNSA mission program activities. In this capacity, these individuals have funded program related technology development proposed for use in the SPP work and must concur on its use on all foreign-sponsored SPP agreements.
- m. Program Secretarial Officer/Cognizant Secretarial Officer/Deputy NNSA Administrator Designee. A DOE/NNSA federal official provided specific authorities through written delegation to act on behalf of the delegating official.
- n. Reimbursable Agreement. A written agreement to perform work or provide a service for another Federal agency or non-Federal entity on a reimbursable basis.
- o. Research. Systematic investigation, including research, development, testing, and evaluation designed to develop, expand or contribute to general knowledge.

- p. Responsible DOE/NNSA Contracting Officer. A DOE/NNSA official with responsibility for administering the contract for the operation of a DOE/NNSA research or production facility.
 - q. Sponsor. An entity that provides strategic partnership project funding.
 - r. Strategic Partnership Projects. Work for non-DOE/non-NNSA entities by DOE/NNSA and/or their contractors or use of DOE/NNSA facilities for work that is not directly funded by DOE/NNSA appropriations consistent with the requirements of this order.
9. CONTACT. For information about this Order, contact the Office of Contract and Financial Assistance Policy at 202-287-1507.

BY ORDER OF THE SECRETARY OF ENERGY:



ELIZABETH SHERWOOD-RANDALL
Deputy Secretary