



Department of Energy

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JM CHRONOLOGY

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DRB DISCUSSION 2/21/2013

MEMORANDUM FOR: INGRID KOLB
DIRECTOR, OFFICE OF MANAGEMENT

THROUGH: KEVIN HAGERTY *[Signature]*
DIRECTOR, OFFICE OF INFORMATION RESOURCES

FROM: GREGORY H. WOODS *[Signature]*
GENERAL COUNSEL

SUBJECT: Notice of Intent to Revise DOE O 483.1 COOPERATIVE
RESEARCH AND DEVELOPMENT AGREEMENTS ORDER and
DOE M 483.1-1 COOPERATIVE RESEARCH AND
DEVELOPMENT AGREEMENTS MANUAL

PURPOSE: This Memorandum seeks approval to revise the outdated CRADA Order (DOE O 483.1) and to incorporate the CRADA Manual (DOE M 483.1-1) into the Order.

JUSTIFICATION: Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (15 USC § 3710a Cooperative Research and Development Agreements) the director of any Government-owned contractor-operated laboratory under agency-approved conditions may enter into CRADAs with the private sector in order to fulfill the agency's technology transfer mission. The Laboratory Management and Operating Contracts (M&O Contracts) contain a Technology Transfer Mission clause that permits the laboratories to enter into the CRADAs (48 C.F.R. 970.5227-3(a)(2)). The current CRADA Order 483.1 and accompanying Manual were approved in 2001. The Technology Transfer Coordinator in consultation with the DOE Technology Transfer Policy Board determined that the CRADA Order was long overdue for an update.

We propose a revision of the CRADA Order to reflect current best practices among the DOE Laboratories and to further improve the CRADA process in compliance with the Presidential Memorandum—Accelerating Technology Transfer and Commercialization of Federal Research in Support of High-Growth Businesses. In that Memorandum, Federal agencies have as a goal to “increase the number and pace of effective technology transfer and commercialization activities in partnership with non federal entities, including private firms, research organizations, and non-profit entities.” We are proposing changes to the CRADA Order that will result in a more simplified DOE-wide model CRADA with 13 rather than 30 articles, a simplified short-form CRADA for projects valued below \$500,000, and a streamlined process for negotiating U.S. Competitiveness provisions. This directive will be implemented throughout DOE. In accordance with the Stevenson-Wydler Technology Innovation Act and M&O contract provisions, most DOE Government-owned contractor operated laboratories have the authority to enter into

Rec'd 2/5/2013 [Signature]



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CRADAs. This directive does not change the current obligations that Laboratories have under the statute. The revised DOE Order will require each Laboratory to modify its current Laboratory Model CRADA to incorporate the updates such as changes to the data rights provisions regarding software and the modification of some provisions as standard to make them an optional provision (such as Article ____: TRADEMARK). Therefore, there is no expectation of added time or cost commitment to implement this directive. The revised directive does not impose any more requirements than are currently required under the DOE O 483.1, so ongoing requirements to fulfill this directive will not change.


There are no valid external, consensus or other Standards (e.g., ISO, VPP, etc.) available which can be used in place of this directive.

IMPACT: The concept of a revised directive has been circulated for comment to the DOE field offices and Laboratories' technology transfer departments. The proposed directive does not duplicate existing laws, regulations or national standards and it does not create undue burden on the Department. Our cross-functional assessment team consisted of: the Office of Science (Russell Ames), Energy (Devon Streit), and NNSA (Bruce Diamond). This revision, once approved, cancels DOE M 483.1-1, Cooperative Research and Development Manual.

WRITER: Linda Field, 202-586-3440.

OPI/OPI CONTACT: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, IP Counsel, Linda Field, 202-586-3440.

Ingrid Kolb, Director, Office of Management (MA-1):

Concur:  Nonconcur: _____ Date: 2-21-2013

Unless determined otherwise by the Directives Review Board (DRB), writers will have up to 60 days in which to develop their first draft and submit to the Office of Information Resources, MA-90.

<u>Standard Schedule for Directives Development</u>	<u>Days</u>
Draft Development	Up to 60
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30
Total	150

(NOTE: The standard schedule of up to 150 days will be used unless otherwise specified by the Directives Review Board.)

Risk Assessment for DOE O 483.1, Revision of CRADA ORDER

<i>Risk/Opportunities</i>	<i>Probability</i>	<i>Impact</i>	<i>Risk Level</i>
People			
NA			
Mission			
1. Opportunity: Create more consistency among the laboratories in adopting model CRADA terms.	NA	NA	NA
2. Opportunity: Update CRADA Order to reflect current practices and improve the process for negotiating and approving the CRADAs across the DOE Complex, especially for small businesses.	NA	NA	NA
3. Risk: Failure to comply with the "Presidential Memorandum-Accelerating Technology Transfer and Commercialization of Federal Research in Support of High Growth Businesses."	Likely	Medium	Significant
Assets			
NA			
Financial			
NA			
Customer and Public Trust			
4. Risk: Continued confusion by public when faced by lack of uniformity in CRADA terms offered at different DOE Labs	Possible	Low	Moderate

Gap Analysis of Existing Risks and Controls

Laws	Stevenson-Wydler Technology Innovation Act (15 USC § 3710a)
External Regulation/ Requirements	"Presidential Memorandum-Accelerating Technology Transfer and Commercialization of Federal Research in Support of High Growth Businesses."
DOE Regulation	48 C.F.R. 970.5227-3
DOE Orders	DOE O 483.1 & DOE M 483.1-1
Contract Controls	None
External Assessments	None
Internal Assessments	None

Risk Assessment for Departmental Directives						
Risk/ Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
1. Opportunity: Create more consistency among the laboratories in adopting model CRADA terms.	NA	Anticipated cost savings in the negotiation process from more consistent approach to model CRADA terms across the DOE complex	NA	NA	Existing CRADA Manual M 483.1-1	Revising CRADA Order to consolidate controls found in Order 483.1 and M 483.1-1 to adopt a simplified model CRADA
2. Opportunity: Update CRADA Order to reflect current practices and improve the process for negotiating and approving the CRADAs across the DOE Complex, especially for small businesses.	NA	Anticipated improvement in speed of business and in attracting new cooperative research partners to advance commercialization of Lab-developed technologies	NA	NA	Existing CRADA Manual M 483.1-1	Revising CRADA Order to adopt a simplified model CRADA, a short –form model CRADA for lower threshold value SOWs, and to simplify negotiating changes to U.S. Competitiveness provisions.

Risk/ Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Existing Internal Control/ Processes	Proposed Internal Control (if needed)
3. Failure to address the "Presidential Memorandum-Accelerating Technology Transfer and Commercialization of Federal Research in Support of High-Growth Businesses."	Significant	Damage to DOE's credibility and that of senior management in not carrying out the Administration's objectives.	None	Mitigation	None	Update DOE Order governing CRADAs
4. Continued confusion by public when faced by lack of uniformity in CRADA terms offered at different DOE Labs	Moderate	Continued cost of parties opting not to engage in collaborative research at DOE Laboratories, impacting DOE's technology transfer mission	None	Mitigation	None	Update DOE Order governing CRADAs