


Department of Energy

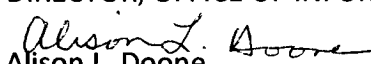
Washington, DC 20585

OCT 13 2015

JM Chronology
JM RECEIVED : 10/13/15
OUT FOR REVIEW 10/26/15
DRB DISCUSSION 11/5/15

MEMORANDUM FOR: INGRID KOLB
DIRECTOR, OFFICE OF MANAGEMENT

THROUGH: KEVIN T. HAGERTY 
DIRECTOR, OFFICE OF INFORMATION RESOURCES

FROM: 
Alison L. Doone
Deputy Chief Financial Officer

SUBJECT: Notice of Intent to Revise and DOE Order 522.1, *Pricing of Departmental Materials and Services*

PURPOSE: The purpose is to provide administrative updates and implement a Secretarial decision to revise user facility pricing.

JUSTIFICATION: The purpose of the pricing order is to set forth DOE 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. The order affects the pricing for most DOE reimbursable work, including Strategic Partnership Projects.

The proposed order revision will provide a comprehensive update to the Department's pricing policy, which was last updated in 2004. The update will:

- Implement a Secretarial decision to update DOE pricing policy for proprietary users during the startup period of new user facilities (see attachment).
- Clarify requirements regarding the Federal Administrative Charge.
- Clarify pricing requirements for Power Marketing Administration work that is not reimbursed by ratepayers.
- Provide a comprehensive update to the lists of exclusions and special pricing provisions, including the deletion of unneeded provisions and the inclusion of special pricing provisions authorized by statute but not included in the current pricing order.
- Clarify requirements for Biennial Pricing Reviews, as required by the CFO Act.

There are no valid alternative standards available which can be used in place of this directive.

IMPACT: The proposed directive does not duplicate existing laws or national standards and it does not create undue burden on the Department. There are no additional costs expected for implementing the revised order.

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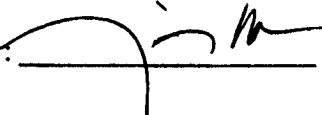
The planned change in the user facility pricing structure (discussed in the attached Secretarial pricing decision) has the potential to affect the revenues received by the Department, though the impact is expected to be minor because of the small number of proprietary users. To ensure that the policy change does not negatively impact user facility operations, the revised policy will ensure that offices designating user facilities are not reliant on revenues from proprietary users to operate the facilities.

Revisions to the order will likely affect 10 C.F.R. 1009, *General Policy for Pricing and Charging for Materials and Services Sold by DOE*, which was promulgated in October 1980. When comments are received on the revised order, the input will be considered as CFO initiates related efforts to update 10 C.F.R. 1009. Considering comments received through the Directives update process will help to ensure alignment between the order and any revisions to the regulation. We do not anticipate finalizing the revised order until associated revisions to 10 C.F.R. 1009 are approved by the Department.

WRITER: Office of the Chief Financial Officer, Tom Griffin (OPI), 202-586-5728

OPI/OPI CONTACT: Office of the Chief Financial Officer, John Wall (OPI), 202-586-5728

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

Concur:  Nonconcur: _____ Date: 11-4-2015

<u>Revised Schedule for Directives Development</u>	<u>Days</u>
Draft Development	Up to 60 days
Review and Comment (RevCom)	30 45
Comment Resolution	30
Final Review	TBD—Depends on schedule for 10 C.F.R. 1009 Update
Total	TBD—Depends on schedule for 10 C.F.R. 1009 Update



Department of Energy

Washington, DC 20585

July 29, 2014

MEMORANDUM FOR THE SECRETARY

FROM:


ALISON L. DOONE

DEPUTY CHIEF FINANCIAL OFFICER

SUBJECT:

Referral of Request for a Waiver to Full-Cost Recovery for
Proprietary Users of the National Synchrotron Light Source II

ISSUE: Whether to approve the Office of Science (SC) request for a waiver to full-cost recovery requirements for proprietary users of the Brookhaven National Laboratory's National Synchrotron Light Source-II (NSLS-II).

BACKGROUND: The NSLS-II facility is scheduled to open in FY 2015 with six beam lines. Additional beam lines will be implemented incrementally, with the full capacity of 60 beam lines expected to be operating by FY 2027. Department of Energy (DOE) pricing policy requires full-cost recovery from proprietary users of DOE facilities; user fees are not charged for non-proprietary work if the user intends to publish the research results in the open literature. Allocation of the full costs of NSLS-II to the 6 beam lines scheduled to be placed in operation in FY 2015 results in substantially higher usage rates than allocation of full costs over the 60 beams that will be available when NSLS-II reaches full operation in FY 2027. SC calculations indicate that allocation of full costs over 6 beam lines results in an hourly rate of approximately \$2,655 versus an hourly rate of approximately \$400 (FY 2014 rate de-escalated from the FY 2027 rate of \$612 per hour) over 60 beam lines. SC believes the \$2,655 per hour rate is prohibitively expensive and would prevent proprietary users from using NSLS-II during the build-out phase and could drive some of the proprietary users to overseas facilities. As a result, SC requested a waiver to full cost recovery requirements for proprietary user projects to allow a rate of \$400 per hour for FY 2015.

To address this issue, and in accordance with DOE Order 522.1, *Pricing of Departmental Materials and Services*, SC submitted to the Office of the Chief Financial Officer (CFO) the attached request for a four-year waiver to the full-cost recovery requirement for NSLS-II proprietary users.

DOE Order 522.1, Section 8.a. (3) delegates authority to the CFO to approve 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...." DOE user facilities have been placed into operation in phases previously, and future facilities are likely to be phased into operation. Thus, CFO does not consider the NSLS-II phase-in to be unique or rare.



As a result, as allowed in the order, CFO is referring the waiver request to the Secretary. The Secretary has authority under the Atomic Energy Act of 1954, § 33, to modify the prices charged by DOE and may grant the SC waiver request.

CFO agrees with SC that the full-cost recovery requirement in the current DOE pricing policy would result in an excessively high hourly rate during the build-out phase of the facility, and therefore, supports the request to allow a rate of \$400 per hour for FY 2015. The initial rate for FY 2015 is expected to escalate by approximately 3% per year for the duration of the four year waiver.

Recognizing that this issue will arise each time a user facility is brought on line in stages, CFO believes the DOE pricing policy should be revised to modify the full-cost recovery requirement for proprietary users during the phase-in period of DOE user facilities. The guiding principle for the pricing policy would be to determine the estimated rate for the facility when it is fully built-out and de-escalate that rate during the phase-in period between commencement of operations and completion of full build-out.

Accordingly, CFO will establish a working group to revise the policy on user facility pricing for proprietary users to provide for a phase-in of full-cost recovery requirements during the build-out of facilities. The working group also will address the lack of clarity regarding pricing exceptions, including multiple, old pricing exceptions that result in inconsistent application of the Federal Administrative Charge.

RECOMMENDATION: CFO recommends approval of the SC waiver request with the following conditions:

- The Federal Administrative Charge is assessed on the price charged to the user.
- Proprietary users will continue to pay any incremental costs incurred to run the facility outside the normal operating mode or schedule or any incremental costs for unusual technical or security requirements.

APPROVE:  DISAPPROVE: _____ Date: 8/4/14

CONCURRENCES:

GC:

SC: