

U.S. Department of Energy
Washington, D.C.

ORDER

DRAFT
DOE O 350.2C

Approved: X-XX-2015

**SUBJECT: USE OF MANAGEMENT AND OPERATING OR OTHER FACILITY
MANAGEMENT CONTRACTOR EMPLOYEES FOR SERVICES TO DOE IN
THE WASHINGTON, D.C. AREA**

1. **OBJECTIVE.** To establish policies and procedures for management of Department of Energy (DOE), including National Nuclear Security Administration (NNSA), management and operating (M&O) and other facility management contractor employees assigned to the Washington, D.C. area.
2. **CANCELLATION.** DOE O 350.2B, *Use of Facility Contractor Employees for Services to DOE in the Washington, D.C., Area*, dated 05-31-2011. Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.
3. **APPLICABILITY.**
 - a. **Departmental Applicability.** The provisions of this Order apply to all Departmental elements, except for those elements specifically exempted in paragraph 3c.
 - b. **DOE Contractors.**
 - (1) The Contractor Requirements Document (CRD), Attachment 1, sets forth the requirements of this Order that apply to site/facility management contracts that include the CRD.
 - (2) The CRD must be included in site/facility management contracts where the contractor employees may be assigned to the Washington, D.C., area for more than 30 continuous calendar days.
 - (3) This Order does not apply to other than site/facility management contracts. Any application of any requirements of this Order to other than site/facility management contracts will be communicated separately from this Order.
 - c. **Equivalencies and Exemptions.**
 - (1) **Exemption.** This Order does not apply to the Power Marketing Administrations.

- (2) Exemption. This Order also does not apply to assignments under Intergovernmental Personnel Act Mobility Program Agreements, Work-for-Others agreements, or other assignments as may be exempted by the Director, Office of Management, or the Associate Administrator for Management and Administration, NNSA.
- (3) Equivalent. In accordance with the responsibilities and authorities assigned by Executive Order (E.O.) 12344, codified at 50 U.S.C. 2406 and 2511, and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Order for activities under the Director's cognizance, as deemed appropriate.

4. REQUIREMENTS.

- b. The head of a DOE Headquarters program or site office, and within NNSA, the Head of the Contracting Activity (HCA) as assignment sponsors must approve an Annual Critical Skills Staffing Plan (ACSP) consistent with this Order prior to approving any assignment of M&O or other facility management contractors to the Washington, D.C., area.
- c. A Cognizant Secretarial Officer must approve a Contractor Washington, D.C. Office Staffing Plan every two years (COSP) consistent with this Order prior to approving any assignment of M&O or other facility management contractor to the contractor's Washington, D.C. office.
- d. All Staffing Plans must include the following information:
 - (1) Total number of extended assignments, new assignments, and any requests for additional assignments
 - (3) The total decrease/increase from the previously approved plan (as appropriate) to include an explanation
 - (4) Statement that plan approval confirms assignments satisfy the requirements of this Order
 - (5) Provide assignment information for each continuing and new assignment consistent with the following:
 - (a) name, job description, and required skills to be provided;
 - (b) total estimated monthly cost (including all indirect costs);
 - (c) percentage of time charged to each the sponsoring organization. If multiple program offices support the assignment, the plan must identify the percentage of support provided to each sponsoring

organization and aggregate to 100 percent. For a part time assignments the percentage of time charged to DOE must be identified;

- (d) laboratory or facility providing the employee;
 - (e) estimated start and end dates for each assignee (NOTE: For multi-year assignments the start date shall remain unchanged and end dates shall be revised at a minimum annually for a ACSP and biannually for a COSP);
 - (f) site location for each assignment (government or contractor space); and
 - (g) program being supported (e.g., basic energy science)
- e. ACSP must be approved on a fiscal year basis. Approval of the plan represents annual approval of total number of new and ongoing assignments contained therein however, individual assignments must be reevaluated on an annual basis and determined to be appropriate for continuation.
- f. A COSP must be approved by the site Cognizant Secretarial Officer (CSO), or within NNSA the HCA, or designee every two years. Approval of a COSP represents approval of the total number assignees however, individual assignments must be reevaluated every two years and determined to be appropriate for continuation. COSP must be coordinated and concurred in by DOE Field element management. When proposed assignments exceed previously approved COSP totals the contractor shall submit a revised COSP for the CSO's approval prior to approval of any additional assignments.
- g. Sponsors must determine in writing that individual new and continuing assignments contained in the ACSP or those proposed during the fiscal year meet the following conditions;
 - (1) Technical expertise or experience critical to the program is neither available within the program or field office and costs are reasonable when compared to other types of contracts (e.g., support service contracts)
 - (2) Tasks must be performed in the Washington, D.C., area
 - (3) The expertise is within the contract scope of work of the contract under which the assignee is employed
 - (4) Documentation meets information standards (Appendix A) and is maintained by the sponsoring organization.

- (5) Assignment reimbursements are reasonable and limited to salary, benefits, business travel, and if applicable, a one-time relocation and consistent with policy described in 4i.
 - (6) Assignments are limited to three years unless the head of the office sponsoring the assignment approves an extension beyond the three-year limit. Approval authority may not be delegated.
 - (7) Assignments greater than three years in duration are considered relocations, and reimbursements in excess of salary and benefits are not permitted. Assignment duration is determined on the aggregate number of calendar days from the start date. (NOTE: One-time relocation costs and salary adjustment on an exception basis are allowable with the written approval by the head of the office sponsoring the assignment.)
 - (8) For employees completing an assignment and approved for a new assignment that results being continuously assigned to the Washington D.C., area, the duration is based on the original start date of the first assignment. Upon reaching the three-year limit, adjustments to reimbursements must occur consistent with relocation designation. If a break of one year or more occurs between assignments the second assignment may be considered a new assignment.
- h. New assignments proposed during the fiscal year including replacements for existing assignees must be reviewed and approved in accordance with this Order.
 - i. Contractor employee assignments must not:
 - (1) compensate for reductions in support service contracting;
 - (2) provide administrative support (e.g. clerical or paraprofessional) within Federal facilities or for Federal employees;
 - (3) perform inherently governmental functions, including directly supervising Federal employees and fiscal or policy decision making;
 - (4) perform contractor business development or lobbying;
 - (5) adversely affect the contractor's mission or otherwise adversely affect the contractor's ability to meet contract commitments;
 - (6) extend support beyond the completion of the work assignments; or
 - (7) perform any function that may be construed as a personal or organizational conflict of interest as referenced in DEAR Subpart 909.5 or 970.0905 and defined in 952.209-72.
 - j. Assignment reimbursement shall comply with the following:

- (1) Contractors shall be reimbursed the lesser of temporary relocation costs (Temporary Change of Station allowances as described in the Federal Travel Regulation at §302-3.400—§302.3.429) or a reduced per diem (Extended Travel Duty) described below. When a reduced per diem method (Extended Travel Duty) is utilized, the allowances are generally as follows: For the first 60 days and last 30 days of the assignment, DOE will reimburse costs associated with lodging at the lesser of actual cost or 100% of the Federal per diem rate. The intervening days will be reimbursed at the lesser of actual cost or 55% of Federal per diem. For the first 30 days and last 30 days, DOE will reimburse costs associated with meals and incidental expenses (M&IE) at the lesser of actual cost or 100% of the Federal per diem rate. Otherwise, DOE will reimburse costs at the lesser of actual cost or 55% of Federal per diem.
 - (2) DOE will not reimburse costs associated with salary premiums, per diem, or lodging/other subsidies for contractor employees on domestic extended personnel assignments after 3 years (except for the reimbursements described above during the last 30 days of the assignment). DOE/NNSA will not reimburse any costs associated with per diem (except for en-route travel) unless the contractor employee maintains a residence at the permanent duty station.
 - (3) DOE will not reimburse costs for salary premiums that exceed 10%.
 - k. Sponsoring organizations shall review active assignment records in the Department's Management and Tracking System (DMATS) database on a fiscal year basis to ensure accuracy. Sponsors shall provide notification the Office of Acquisition and Project Management of their annual review completion by October 30.
 - l. Sponsoring organizations will work with contractors to conduct an OCI analysis for each assignment and ensure amendments occur when a significant change or addition occurs to the assignees' work.
 - m. Sponsoring offices will provide copies of approved staffing plans to CSO organizations from which assignees are being provided.
5. RESPONSIBILITIES.
- a. Office of Management, and Associate Administrator for Acquisition and Project Management, NNSA.
 - (1) Establish DOE policies for assigning contractor employees to the Washington D.C., area.
 - (2) Maintain an inventory of assigned contractor employees using DMATS.

- (3) Provide DOE-wide assignment information using data entered into DMATS by sponsoring offices.
- b. DOE Cognizant Secretarial Officers (CSO) for sites under their purview, and the NNSA HCA:
 - (1) Ensure site procedures are established for approval of assignments that, at a minimum, meet the requirements of this Order.
 - (2) Notify contracting officers when the CRD to this Order must be included in an M&O or facility management contract.
 - (3) Approve COSP every two years.
 - (4) Review contractors' use of government and contractor leased space for COSP assignments to ensure that Government-owned or leased space is used to the maximum extent practicable.
 - (5) Approve in writing requests for waiving the requirements of this Order for individual assignments.
 - (6) Approve in writing requests for waiving the requirements of this Order for individual assignments and in coordination with the responsible Senior Procurement Executive approve blanket waivers.
- c. DOE Field Element Manager and NNSA Head of Contracting Activity or Designee.
 - (1) Coordinate with the Assignment Sponsor in the preparation of the ACSP.
 - (2) Concur in the proposed COSP prior to submitting to the CSO for approval.
 - (3) Ensure contracts include the CRD to this Order prior to approval of any contractor assignments under this Order.
 - (4) Establish site specific procedures for review and approval of assignments.
 - (5) Provide written approval designating alternative local senior management officials to concur in COSP and preparation of ACSP or individual assignments.
- c. Assignment Sponsors.
 - (1) Prepare and approve ACSPs and individual assignment packages consistent with this Order including the minimum information standards in Appendix A.

- (2) Ensure changes to existing or approval of new assignments are entered in the DMATS database within 30 days of when such changes become effective. Failure to include a contractor assignment into DMATS will render any costs associated with that assignment to be unallowable under the terms and conditions of the contract.
 - (3) Maintain review and approval documentation for all assignments sponsored under the approved ACSP.
 - (4) Establish procedures for meeting OCI analysis requirements in 4.n.
- 6. REFERENCE. DOE O 412.1A, *Work Authorization System*, dated 4-21-05, established the work authorization and control process for work performed by site management contractors for DOE.
- 7. DEFINITIONS.
 - a. M&O or other facility management contractor employee (referred to in this Order as “contractor”) is any employee of an M&O or other facility contractor responsible for managing a Department of Energy (DOE) owned facility, such as a national laboratory or production complex.
 - b. M&O and other facility management contractor assignments are assignments of contractor employees to the Washington, D.C., area for more than 30 continuous calendar days where a contractor employee provides a Headquarters program office with technical expertise and experience in the Washington, D.C., area, that is critical to that office’s operation or program(s) or provides support to a contractor’s Washington, D.C., staff office.
 - c. Annual Critical Skills Staffing Plan are plans prepared by DOE/NNSA Headquarters program offices or field offices that list the proposed number, types and costs of contractor employees who will provide direct support to program organizations sponsoring the assignments during the upcoming fiscal year.
 - d. Contractor Washington, D.C. Office Staffing Plan are plans developed and submitted by the contractor every two years proposing new or continued assignments of contractor staff employees assigned to performing work directly for the contractor’s Washington D.C., office.
 - e. Assignment sponsors are organizations (typically program offices) that review, approve and fund contractor assignments to the Washington D.C., area consistent with the requirements of this Order including management of such assignments consistent with the approved ACSP. For COSP the CSO is designated as the plan sponsor.

8. CONTACT. For information about this Order, contact the Office of Acquisition and Project Management, Office of Policy, at 202-287-1507.

BY ORDER OF THE SECRETARY OF ENERGY:



ELIZABETH SHERWOOD-RANDALL
Deputy Secretary

APPENDIX A ASSIGNMENT INFORMATION STANDARDS

The following information must be included in all staffing plan or individual request submissions.

1. The employee's full name, employer (contractor) and proposed job classification.
2. Start and end dates of the assignment (use the original start date for continuations).
3. Statement of work the employee is being assigned to perform.
4. Description of how the proposed work relates to the facility contract statement of work.
5. A description why the work cannot be performed at the employee's regular duty station.
6. Assessment of program impacts if the assignment is not approved.
7. Determination why alternative sources such as those within program, site offices or through a support service contract are not practicable or appropriate.
8. The basis used for determining that assignment costs are reasonable.
9. List the program component the employee will provide services to and the physical location where the employee will be assigned.
10. Provide the name, organizational code, and phone number of the Federal employee who will be responsible for ensuring assignee attendance and performance of work and ensuring the assignment conforms to this Order.
11. Confirmation that the assignment is not to replace a support service contractor.
12. Confirmation that approval of this employee assignment will not result in your organization exceeding its annual assignment allocation.
13. Determination that costs have been limited to salary and benefits and, if applicable, a one-time charge for relocation for assignments to contractor Washington D.C. offices.
14. Determination that total monthly and/or annualized cost for the assignment includes all costs for the assignment (salary, benefits, per-diem, business travel, etc.).
15. Determination that cost reimbursement is consistent with requirements in this Order.
16. If estimated costs (other than salary and benefits) exceed per-diem rate for the year explain what costs elements cause this to happen and what is the rationale being used to approve exceeding the per-diem rate (if applicable).

17. What are the detailed costs elements for this assignment? Including but not limited to:
- a. salary and benefits (fully burdened, indicate the percentage of indirect costs burden);
 - b. personal effects shipment;
 - c. monthly and annual housing costs;
 - d. work-related travel costs (number of trips, estimated cost per trip, destination and purpose);
 - e. personal travel costs for returning to permanent duty station (include the annual number and frequency of these trips and the costs estimated for each trip); or
 - f. other costs (including, but not necessarily limited to per-diem, etc.).

NOTE: An assignment of greater than three years in duration will be considered a relocation, and assignment reimbursements will cease when the fiscal year in which the three year limit is completed, at which point the revised policy will be applied or the assignee must return to his/her former duty station. (NOTE: Reduced one time relocation costs and salary adjustment will be permitted with written approval from the head of the sponsoring organization.)

18. When applicable a description why an extension is critical and the significant benefit gained by the sponsoring office and the facility.
19. When applicable the rationale supporting the head of the sponsoring organization's approval for assignments beyond the 3-year term limitation.

CONTRACTOR REQUIREMENTS DOCUMENT

DOE O 350.2B, USE OF M&O OR OTHER FACILITY MANAGEMENT CONTRACTOR EMPLOYEES FOR SERVICES TO DOE IN THE WASHINGTON D.C., AREA

Regardless of the performer of the work, the contractor is responsible for complying with the requirements of this CRD.

1. Contractor employees providing services subject to the provisions of this CRD must be listed in the Departments' Management and Tracking System (DMATS) database of contractor assignments to the Washington, D.C., area. Failure of an assignee's sponsoring organization to list an employee in the database will cause any costs associated with that employee (e.g., salary and benefits) to be deemed unallowable under the terms and conditions of the contract.
2. Contractor organizations may designate a point-of-contact (POC) and request read-only access to the DMATS at <http://hr5ndom1.pr.doe.gov>. With access, the contractor POC can monitor and ensure that changes to the database are made in an accurate and timely manner.
3. The contractor must submit the task assignment statement and cost estimate analysis for all requested assignments and extensions. NNSA assignments must use the NNSA provided forms.
4. The contractor is not permitted to award subcontracts or subcontract work tasks, to provide direct support to Headquarters program offices in the Washington, D.C., area.
5. Every two years the contractor must submit to the head of the contracting activity (HCA) by September 1 a COSP for continuation of an existing or the creation of a staff office in the Washington, D.C., area for the next fiscal year. The plans must meet the information standards for staffing plans, indicate the program account each assignment is charged against and identify the proposed staffing for the next fiscal year.
6. The contractor must operate within its approved COSP. Waiver requests to exceed approved allocation must be submitted to the CSO or HCA for approval.
7. The contractor must obtain approval of the HCA or designee, prior to assigning employees to positions in the Washington, D.C., area.
8. The contractor must provide information requested by the HCA, or his or her designee, in support of such assignments. This information may include:
 - a. rationale and description of required skills and expertise being provided;
 - b. determination that there is no adverse impact to work at the contractor's site;

- c. determination and the basis for the determination that the assignment is critical and significant and mutually beneficial to both the program and facility if the assignment exceeds 12 months;
 - d. determination that the work to be performed by the employee is within the scope of the facility management contract through which the assignee is employed and the assignment conforms with the staffing plan;
 - e. cost breakout and description why the costs for each assignment are reasonable (including all indirect costs);
 - f. notification of completion of work assignment;
 - g. when applicable, a justification based on a critical need for requesting a waiver of the allocation;
 - h. description why based on sponsor's requirements alternative sources were not practical;
 - i. if an OCI has been identified, assurance that there is compliance with the mitigation plan.
9. The contractor must ensure assignments do not adversely impact the mission site or laboratory mission