

Approved: 7-12-01

This directive was reviewed and certified as current and necessary by (Enter Name), (Enter Title) Director, Office of Management, Budget and Evaluation/Chief Financial Officer, XX-XX-XXXX.

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

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1. OBJECTIVE. To clarify and modify policies and procedures for management of Department of Energy (DOE), including National Nuclear Security Administration (NNSA), facility contractor employees located in the Washington, D.C., area.
2. CANCELLATION. This Order replaces DOE N 350.5, *Use of Facility Contractor Employees for Services to DOE in the Washington, D.C., Area*, dated 4-15-99.
3. APPLICABILITY.
  - a. DOE Elements. The provisions of this Order apply to all DOE elements, including those within the NNSA, except for those elements specifically exempted in paragraph 3c.
  - b. Contractors. This Order applies to the assignment of facility contractor employees to the Washington, D.C., area for more than 30 continuous calendar days. A facility contractor is any contractor performing under a management and operating contract, a management and integration contract, or an environmental restoration management contract awarded by a DOE contracting officer. A facility contractor employee is an employee of either a facility contractor or a subcontractor of such a contractor. The Contractor Requirements Document (CRD), Attachment 1, identifies requirements that apply to contractors. Contractor compliance with the CRD will be required to the extent set forth in a contract.
  - c. Exclusions. This Order does not apply to the Bonneville Power Administration and the Deputy Administrator for Naval Reactors. This Order also does not apply to assignments under Intergovernmental Personnel Act Mobility Program Agreements, Work-for-Others agreements not reimbursed by DOE, or such others as may be exempted by the Director, Office of Management and Administration (MA), or the Headquarters personnel officer, NNSA.
4. REQUIREMENTS.
  - a. The number and types of positions for DOE facility contractor employees located in the Washington, D.C., area must be within approved staffing ceilings for either the Headquarters program or staff offices or the facility contractor office staffing.

- b. At the request of a Headquarters program or staff office, the head of the contracting activity (HCA) may authorize DOE facility contractors to assign personnel to positions in the Washington, D.C., area, provided those positions conform to one or more of the following conditions.
- (1) Personnel provide a Headquarters program or staff office with technical expertise and experience critical to that office's operations or programs when that expertise and experience is not otherwise available at lower cost through other types of contracts (e.g., support service contracts).
  - (2) Personnel undertake tasks that must be performed in the Washington, D.C., area because staff must coordinate or interface in person with Headquarters staff or other agencies or because such assignments can be demonstrated to be cost effective for performance of the task.
  - (3) Personnel provide administrative support in a facility contractor's office. The number and types of administrative support staff must be based on good business practices and approved by the HCA.
  - (4) Personnel, other than administrative support staff, provide technical expertise within the mission and scope of work of the contract under which the assignments are made.
- c. Assignment of DOE facility contractor employees to the Washington, D.C., area must not adversely affect the contractor's mission or otherwise adversely affect the contractor's ability to meet contract commitments.
- d. DOE facility contractor employees shall not be assigned to the Washington, D.C., area to—
- (1) compensate for reductions in support service contracting;
  - (2) provide administrative support (e.g. clerical or para professional) within Federal facilities or for Federal employees;
  - (3) perform functions inherently reserved for Federal employees, including directly supervising Federal employees and making fiscal and/or policy decisions;
  - (4) perform assignments that exceed 12 months in duration unless the individual's continued assignment is critical and represents significant mutual benefit to the program sponsor and the facility;
  - (5) perform contractor business development or lobbying;

- (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.
- e. A DOE facility contractor is not to award subcontracts, or subcontract work tasks, to provide direct support to program offices in the Washington, D.C., area.
- f. DOE facility contractor employee work assignments performed in the Washington, D.C., area must conform to the relevant program office critical skills staffing plan or contractor office support staffing plan. The process required for establishing staffing requirements (see Attachment 2) is as follows.
  - (1) Each Headquarters program or staff office that uses facility contractor employees within the Washington, D.C., area will submit a critical skills staffing plan for facility contractor personnel to the Director, MA, or Headquarters personnel officer, NNSA, as appropriate, and cognizant HCAs by May 1 of each year (see Attachment 3). This plan will—
    - (a) delineate the required skills and expertise to be provided by facility contractor employees who will be reimbursed with Department funds and
    - (b) include a proposed ceiling for the number of contractor staff to be assigned for the next fiscal year.
  - (2) Each HCA or designee will develop and submit through the cognizant secretarial officer an office support staffing plan to the Director, MA, or Headquarters personnel officer, NNSA, as appropriate, by April 1 of each year (see Attachment 4).
    - (a) The plan will include the following positions that are located at the facility contractor's Washington office and the costs of which are reimbursed by the Department:
      - 1 all administrative, office support, and overhead positions and
      - 2 any positions that ensure efficient task performance but do not support specific program offices.
    - (b) The plan will also indicate the program account each position is charged against and the proposed ceiling on such assignments for the next fiscal year.

- (3) The Director, MA, or the Headquarters personnel officer, NNSA, as appropriate, will consult with affected organizations to establish facility contractor ceiling numbers for employees to be located in the Washington, D.C., area for each Headquarters program, staff, and facility contractor support office. The ceilings are to be approved by the Deputy Secretary, DOE, with concurrence by the Director, MA, or the Headquarters personnel officer, NNSA, as appropriate, by August 1 of each year. NNSA Headquarters personnel officer and MA will distribute approved allocation notifications to appropriate offices.
    - (a) Each DOE Headquarters program and staff office is responsible for meeting the criteria for assignments and for remaining within its facility contractor employee ceiling allocation.
    - (b) Each facility contractor must operate within its office support staffing plan.
- g. Any DOE Headquarters program, staff, or contractor support office facing a critical need to exceed its ceiling may request a waiver from the Deputy Secretary, DOE. All waiver requests must be concurred in by the Director, MA, before submission to the Deputy Secretary, DOE. For requests from NNSA organizations, concurrence of the Headquarters personnel officer, NNSA, is also required. The request must include the following information:
  - (1) justification for modifying the staffing plan and a list of the critical work task(s) that require additional staffing;
  - (2) the start and end dates for the work assignments requiring the waiver;
  - (3) the organizational subcomponent (or other organization or contractor) to which the employee will provide services;
  - (4) the physical location of the facility contractor employee assignments; and
  - (5) an explanation of how the facility contractor employee assignments are cost effective.
- h. All assignments of facility contractor employees to the Washington, D.C., area require the authorization of the HCA or designee. Procedures for approving assignments of facility contractor employees in the Washington, D.C., area must, at a minimum, meet the requirements of the Department's Work Authorization Process. The required procedures (illustrated in Attachment 5) must include the following.

- (1) The DOE Headquarters program or staff office, in concert with the facility contractor and the DOE HCA or designee, develops a work authorization statement showing the required skills mix, scope of work, estimated duration of assignments/needs, reporting requirements, funding source, and any other information required for a work authorization.
  - (2) The DOE Headquarters program or staff office must certify that Washington, D.C., employee assignments conform with its staffing plan and are within the facility contractor employee ceiling allocation.
  - (3) The facility contractor informs the cognizant DOE contracting officer or designee of the personnel qualified and available to accomplish the assignments.
  - (4) The DOE contracting officer or designee examines the work authorization statement to ensure assignments will not adversely affect the contractor's performance. The DOE contracting officer or designee will also update the database that has been established to maintain a current inventory of assignments in the Washington, D.C., area and provide notification to the Contract Administration Division, Office of Contract Management, Office of Procurement and Assistance Management, Headquarters (MA-522).
- i. The DOE contracting officer or designee, upon DOE HCA approval of a new assignment of a facility contractor employee to the Washington, D.C., area or upon the expiration of an existing assignment, enters the appropriate changes to an MA database of facility contractor employees providing services to DOE in the Washington, D.C., area within 30 days of such change becoming effective.
- j. Any facility contractor employee providing services subject to the provisions of this Order must be listed in the database of facility contractor employees referenced in paragraph 4i.
- (1) Failure to list such employees 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 applicable contract.
  - (2) Payments to a facility contractor employee for any additional tax burden caused by an extended assignment will also be deemed unallowable.
  - (3) In no event is the termination of employment of any specific individual employed by a facility contractor to be directed by DOE.
- k. The appropriate contracts should be modified to include the requirements of paragraph 4j of this Order as soon as practicable, but no later than the next

scheduled modification, or if a new contract is contemplated, when the new contract is awarded.

5. RESPONSIBILITIES.

a. DOE Headquarters Program and Staff Offices.

- (1) Assess the need for and cost effectiveness of the tasks and assignments of facility contractor employees.
- (2) Complete an annual critical skills staffing plan to define facility contractor employees who will provide technical support to meet the program mission; ensure conformance of plan with DOE policy (Attachment 3).
- (3) Prepare requests for temporary waivers to facility contractor employee staffing ceilings.
- (4) Work with field managers and facility contractors to develop tasks for new facility contractor employee assignments, ensuring that these assignments do not exceed the facility contractor employee ceiling.
- (5) Establish procedures for the assignment of facility contractor employees to the Washington, D.C., area that, at a minimum, meet the requirements of the Department's Work Authorization Process.

b. DOE Heads of Contracting Activities.

- (1) Work with the facility contractor to develop its annual facility contractor office support staffing plan (see Attachment 4).
- (2) Authorize work authorizations and assign facility contractor employees in the Washington, D.C., area (see paragraph 4h).
- (3) Maintain database inventory of current facility contractor employee assignments.
- (4) Review the facility contractor's use of leased space to ensure that Government-owned space is used to the maximum extent practicable.
- (5) Periodically review facility contractor staffing assignments to ensure conformance with the staffing plan.
- (6) Modify contracts under his/her cognizance pursuant to paragraph 4k.

- c. Office of Management and Administration, and Headquarters Personnel Officer, NNSA.
- (1) Working with the program secretarial officer (PSO), review, evaluate, and approve staffing plans proposed by DOE/ Headquarters program and staff offices for facility contractor employees.
  - (2) Working with the PSO, establish facility contractor employee annual ceilings for facility contractor employee assignments for each DOE Headquarters program and staff office.
  - (3) Develop a composite inventory of facility contractor employees in the Washington, D.C., area by November 30 of each year, from information supplied by the program, staff, and field office inventories and the staff inventory database.
  - (4) Review and concur in requests for temporary waivers to the approved facility contractor employee ceilings.
  - (5) Coordinate with the appropriate Chief Financial Officers on any reports to Congress.
  - (6) Issue approved allocation notifications for individual organizations in accordance with the Deputy Secretary's decisions.
6. REFERENCE. DOE O 412.1, *Work Authorization System*, dated 4-20-99, established the work authorization and control process for work performed by site management contractors for DOE.
7. CONTACT. For information about this Order, contact Scott Geary at 202-586-3299.

BY ORDER OF THE SECRETARY OF ENERGY:



FRANCIS S. BLAKE  
Deputy Secretary

## **CONTRACTOR REQUIREMENTS DOCUMENT**

### ***DOE O 350.2, Use of Facility Contractor Employees for Services to DOE in The Washington, D.C., Area***

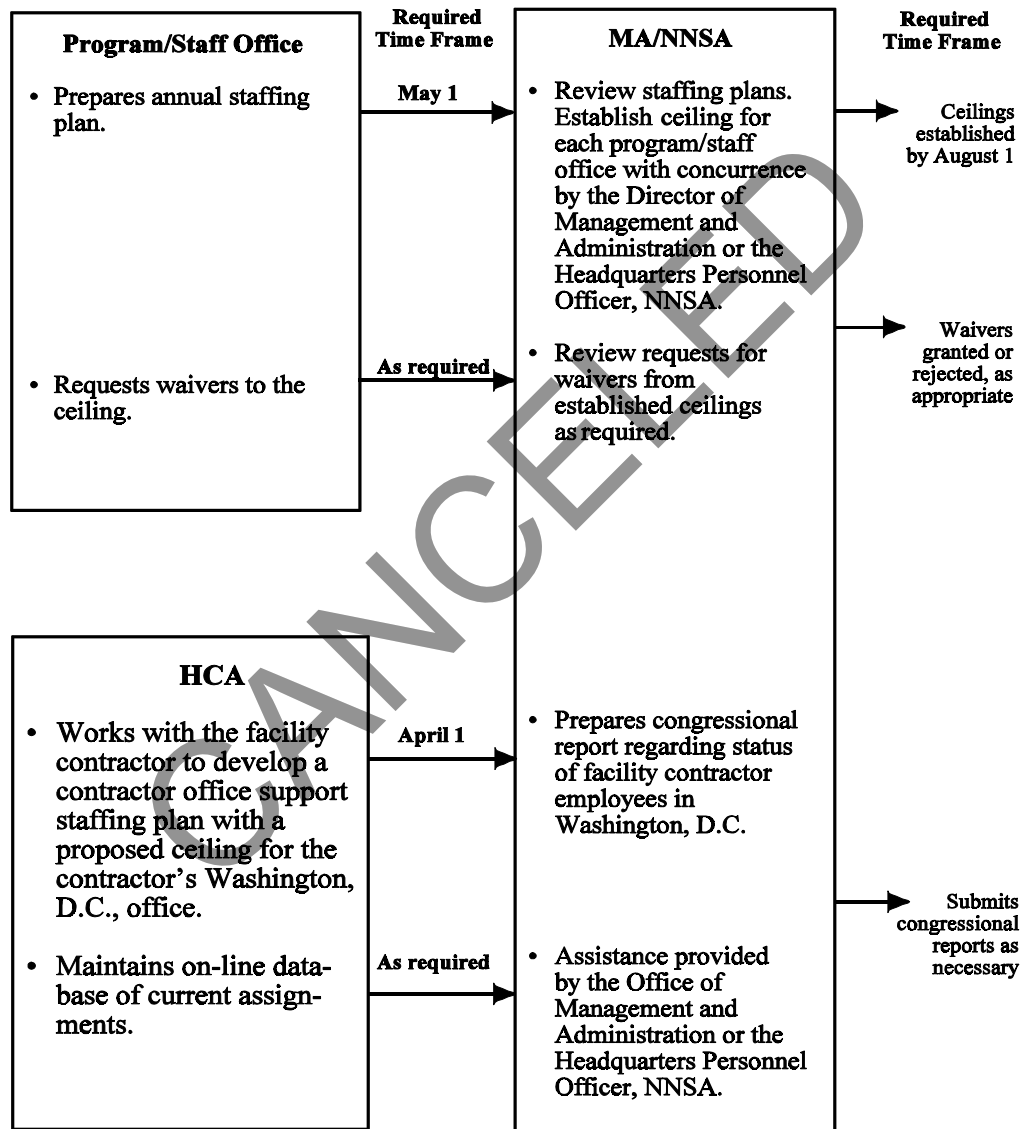
1. This Contractor Requirements Document applies to the assignment of facility contractor employees to the Washington, D.C., area for more than 30 continuous calendar days. A facility contractor employee is any employee of either a contractor responsible for managing a Department of Energy- (DOE-) owned facility, such as a National Laboratory, or a subcontractor of such a contractor.
2. DOE facility contractors may assign with HCA approval, personnel to positions in the Washington, D.C., area, provided those positions conform to one or more of the following conditions.
  - a. Personnel provide a DOE Headquarters program or staff office with technical expertise and experience critical to operations or programs when that expertise and experience is not otherwise available from the Federal workforce or at lower cost through other types of contracts (e.g., support service contracts).
  - b. Personnel undertake work tasks that must be located in the Washington, D.C., area because staff must coordinate or interface in person with DOE Headquarters staff or other agencies, or because such assignments can be demonstrated to be cost effective for performance of the task.
  - c. Personnel provide administrative support in a facility contractor's office. The number and types of administrative support staff must be based on good business practices.
  - d. Personnel, other than administrative support staff, provide technical expertise within the mission and scope of work of the contract under which the assignments are made.
3. DOE facility contractor or subcontractor employees cannot be assigned to the Washington, D.C., area if employee absences will adversely affect the contractor's or subcontractor's ability to meet contract commitments.
4. DOE facility contractor or subcontractor employees cannot be assigned to the Washington, D.C., area under any of the following conditions:
  - a. to perform assignments exceeding the staffing ceiling approved by the Deputy Secretary, DOE;
  - b. to compensate for reductions in support service contracting;



- c. to provide administrative support within Federal facilities or for Federal employees;
  - d. to perform functions inherently reserved for Federal employees, including directly supervising Federal employees and making fiscal and/or policy decisions;
  - e. to perform assignments that exceed 12 months in duration unless the individual's continued assignment is critical and represents significant mutual benefit to the program sponsor and the facility;
  - f. to provide contractor business development or lobbying liaison; or
  - g. to extend support beyond the completion of the work assignments.
5. A DOE facility contractor is not to award subcontracts or subcontract work tasks to provide direct support to Headquarters program or staff offices in the Washington, D.C., area.
6. DOE facility contractor employee work assignments performed in the Washington, D.C., area must conform to the relevant program office critical skills staffing plan or contractor office support staffing plan. The facility contractor is required to work with the DOE head of the contracting activity or designee to develop and submit, through the cognizant secretarial officer, an annual office support staffing plan to the Director, Office of Management and Administration (MA), or Headquarters personnel officer, NNSA, as appropriate, by April 1 of each year (see Attachment 3 in DOE O 350.2). The plan will include all administrative, office support, and overhead positions for the facility contractor's Washington, D.C., office that are reimbursed by the Department; the program account they are charged against; and the proposed ceiling on assignments for the next fiscal year.
7. Each DOE facility contractor must operate within its office support staffing plan.
8. Any DOE office that needs to exceed its ceiling may request a waiver from the Deputy Secretary, DOE. All waiver requests must be concurred in by the Director, MA, before submission to the Deputy Secretary, DOE. For requests from NNSA organizations, concurrence of the Headquarters personnel officer, NNSA, is also required. Contractors must assist any DOE office to provide, as a minimum, the following information in support of such requests:
- a. justification for modifying the staffing plan and a list of the critical work task(s) that require additional staffing;
  - b. the start and end dates for the work assignments;
  - c. the organizational subcomponent (or other organization or contractor) to which the employee will provide services;

- d. the physical location of the assignments; and
  - e. an explanation of how the assignments are cost effective.
9. DOE contractors must justify the use of any leased space, including the cost of the space, to obtain approval by the contracting officer.
10. Any facility contractor employee providing services subject to the provisions of DOE O 350.2 must be listed in the database of facility contractor employees referenced in paragraph 4i of the Order.
- a. Failure to list such employees 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 applicable contract.
  - b. Payments to a facility contractor employee for any additional tax burden caused by an extended assignment will also be deemed unallowable.
  - c. In no event is the termination of employment of any specific individual employed by a facility contractor to be directed by DOE.

### Establishing Facility Contractor Employee Staffing Plan



**DOE FACILITY CONTRACTOR EMPLOYEE STAFFING PLAN**

**OFFICE OF \_\_\_\_\_**

Fiscal Year 20\_\_\_\_

Proposed Employee Ceiling: \_\_\_\_\_ Positions

Current Number of Assignments: \_\_\_\_\_

This plan adequately reflects the anticipated support required from facility contractor employees by \_\_\_\_\_ (program or staff office) to meet program objectives.

\_\_\_\_\_  
(Program Secretarial Officer)

May 1, 20 \_\_\_\_

**OFFICE OF \_\_\_\_\_**  
(SUBPROGRAM OFFICE)

**FISCAL YEAR 20 \_\_\_\_\_**

<b>Offices (Suborganizational Offices)</b>	<b>Contractor Employees</b>		<b>Facility Contractor Employee (Key Functions and Critical Skills)</b>
	<b>FY* _____</b>	<b>FY** _____</b>	
Office Number Office Objectives and Performance Measures for FY _____			
Office Number Office Objectives and Performance Measures for FY _____			
Office Number Office Objectives and Performance Measures for FY _____			

\*Previous fiscal year

\*\*Proposed fiscal year

Total fiscal year program direction funds: \$ \_\_\_\_\_ (includes \$ \_\_\_\_\_ for support services.)

Total fiscal year program funds: \_\_\_\_\_  
(includes all indirect costs)

Laboratories/facilities being funded: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

**DOE FACILITY CONTRACTOR EMPLOYEES SUPPORTING OFFICE OF \_\_\_\_\_**

Name	Contractor/ Subcontractor	Job Assignment	Site*	Program	Start-End Dates	Time Charged Against Program Funds (%)	Cost** (\$K/Mo)

\*G=located within DOE facilities; O=located within contractor office. \*\*Includes all indirect costs.

**ANNUAL SUPPORT PLAN  
DOE CONTRACTOR  
ADMINISTRATIVE/OVERHEAD STAFF  
FOR WASHINGTON, D.C., OFFICES  
FY 20\_\_\_\_**

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(See paragraph 4f(2) of DOE O 350.2)

DOE Contractor: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Washington, D.C., offices:

Site 1: \_\_\_\_\_ Office Manager: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Site 2: \_\_\_\_\_ Office Manager: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Administrative support staff required for FY 20 \_\_\_\_ for each site (M&O contractor employees only; does not include subcontractor support). Attach additional pages if needed.

**Site 1 (name):**

Administrative Staff Member	Duration of Assignment (Start Date to Anticipated End Date)	Function (Statement of Necessity for Presence in Washington, D.C., Office)	Total Cost*	Accounts Charged (%)**

\*Includes all indirect costs. \*\*For example: NE 70%; overhead 30%.

**Site 2 (name):**

Administrative Staff Member	Duration of Assignment (Start Date to Anticipated End Date)	Function (Statement of Necessity for Presence in Washington, D.C., Office)	Total Cost*	Accounts Charged (%)**

\*Includes all indirect costs. \*\*For example: NE 70%; overhead 30%.

**Ratio of Administrative to Technical Staff**

Site Name and Number	Total Administrative (Admin.) Staff (FTEs)	Total Technical (Tech.) Staff* (FTEs)	Ratio (Admin.:Tech.)
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\*Includes professional technical staff only.



**Technical or Special Category Staff Supported by  
Discretionary Funding/Multiprogram Funding**

Name	Contractor	Job Assignment	Site*	Program	Start-End Dates	Time Charged (%)**	Cost (\$K/Mo) <sup>†</sup>	Accounts Charged

\*G=located within DOE facilities; O=located within contractor office.    \*\*Percent of time charged against program funds.  
<sup>†</sup> Includes all indirect costs.

Anticipated events during FY 20 \_\_\_\_ that may impact the number of positions, costs, or duration of assignments reflected in the table above (e.g., expansion of a program; discontinuance of support services provided by home site): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Itemized Costs for Maintaining Offices\***

	Estimated	versus <sup>†</sup>	Previous
Site Name and Number	FY ____**		FY ____**

\*Include previously estimated staffing costs.    \*\*Total for each site.  
<sup>†</sup> Explain significant variances using additional pages if necessary.

**Approvals:**

This plan accurately reflects the administrative support anticipated by \_\_\_\_\_ (DOE contractor) and \_\_\_\_\_ (DOE field office) as necessary for the contractor to meet FY 20 \_\_\_\_ requirements in support of DOE's mission.

\_\_\_\_\_  
DOE Contracting Officer  
(DOE field office)

\_\_\_\_\_  
Contractor's Representative

**Procedures for Work Assignments in Washington, D.C.**

