



The Secretary of Energy
Washington, DC 20585

May 12, 2003

MEMORANDUM FOR HEADS OF ALL DEPARTMENTAL ELEMENTS

FROM: SPENCER ABRAHAM *Spencer Abraham*
SUBJECT: Performance-Based Management

The Department of Energy (DOE) has made a strong commitment to the Government-owned, Contractor-operated (GOCO) model of contracting in order to implement a results-driven, performance-based approach to management. While commendable progress has been made in implementing this management approach, I want to reiterate and emphasize my full commitment and to encourage your full and active involvement in department-wide implementation.

The DOE policy statement for implementing performance-based management includes the following guiding principles:

- Performance objectives are established in partnership with affected organizations and are directly aligned to the DOE strategic goals;
- Resource decisions and budget requests are tied to results;
- Primary reliance is placed upon self-assessments, with "for cause" reviews conducted only as needed; and
- Results are used for management information, establishing accountability, and driving long-term improvements.

Several key initiatives already underway in support of performance-based management are the National Nuclear Security Administration and the Office of Science re-engineering and restructuring efforts. In addition, Under Secretary Card has established principles for negotiating and implementing laboratory contracts. Fundamental changes in our administration of field operations and laboratory contracts will decrease direct DOE oversight in day-to-day activities; increase contractor authority and accountability; and result in the development of understandable and agreed upon performance measures.

I encourage your organizations to share lessons learned in developing and implementing performance-based management systems and to support continuous commitment to promoting partnerships and trust resulting in innovation and creativity at all organizational levels.

Attachment:
Hamre Report Recommendation 1-4



Printed on recycled paper

Issue:

1-4 Commit to the government-owned, contractor-operated (GOCO) model of management

Background:

DOE has been unable to decide whether its unique government-owned, contractor-operated (GOCO) system should be operated as a true GOCO enterprise, or whether it should be treated more like a government-owned, government-operated (GOGO) system. From the beginning, the laboratories were GOCO operated, but successive bureaucratic intrusions have muddied the picture. Because of national security interests, the potential consequences of a security or safety breach, and a history of safety, health, and security concerns, DOE has been unwilling and in many instances politically unable to manage the nuclear weapons complex as a true GOCO operation. The current system is a poorly constructed hybrid of both.

The current performance-based management approach to oversight within DOE has been used to establish a new culture at the Department with an emphasis on the customer-supplier partnership between DOE and the laboratories, and a greater focus on mission performance, best business practices, cost management, and improved accountability. Under a performance-based management system, DOE provides clear and understandable policy direction to the laboratories and develops annual performance plans to assess their performance. The system can be implemented without excessive management or direction by DOE, and allows for operational awareness activities and for-cause reviews.

Sensitivities:

The continued political sensitivities surrounding the DOE laboratories, especially the NNSA laboratories, and the potential consequences from a breach of security or safety at these laboratories exasperate issues with the GOCO model.

Departmental Response:

The Department agrees with the Commissions' recommendation.

The Secretary will issue an updated policy statement that reiterates the Department's commitment to a performance-based management approach and its continuous improvement in providing oversight of the DOE laboratories.

The new policy statement will:

- Recommit the Department to implementing the GOCO model of management, with DOE focusing on “what to do” and the contractor focusing on “how to do it;”
- Emphasize the increased accountability for the laboratory director and laboratory contractor for compliance with applicable laws and regulations;
- Express the Department’s intention to extend or compete contracts based on the performance of the contractor and overall performance of the laboratory; and
- Support the use of the contract principles contained in Under Secretary Card’s memo of April 30, 2002, in negotiating new contracts for the GOCO laboratories (see attached).




2002-005995

The Under Secretary of Energy
Washington, DC 20585

April 30, 2002

MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS

FROM: ROBERT G. CARD 

SUBJECT: Principles for Office of Science Laboratory Contracts

I recently directed that the Office of Science (SC) review its laboratory management and operating contracts and develop innovative approaches and techniques for improving contractor performance and contract administration.

In response, SC convened a multidisciplinary working group to review its current contracts, giving priority to those submitted for an extend/compete decision, i.e., Lawrence Berkeley National Laboratory (LBNL), Pacific Northwest National Laboratory (PNNL), and Brookhaven National Laboratory (BNL). This Working Group developed a set of principles for SC laboratories consistent with my direction to improve contractor efficiency and effectiveness and to enhance accountability. The principles will be used to help tailor fundamental changes in contracts for each of the SC laboratories.

The *DOE Laboratory Best Practices Pilot Study* of selected Federal contractor-operated laboratories, completed by LBNL in February 2002, and the discussions of the Laboratory Operations Board external panel to review the Laboratory Best Practices Study were among the resources considered by the SC Working Group in formulating the following principles that will help to guide the development of contracts for PNNL, LBNL, and BNL.

1. **Line Management Accountability:** The Department will establish clear line management accountability (through a single Federal official) for laboratory performance with a strong focus on mission success and with authority to integrate administrative and operations requirements into program missions.
2. **National Standards:** The Department will rely primarily on Federal, State, and local laws, regulations, and national standards to establish contractor requirements and performance criteria, while minimizing the use of Department of Energy (DOE) Orders and directives as a mechanism for placing administrative and operational requirements on the contractor.
3. **Oversight:** The Department will ensure that the laboratory contractors use external, nationally recognized experts to carry out independent risk and vulnerability studies, validate and certify that the contractor



Printed with soy ink on recycled paper

management systems meet the applicable laws or regulations, and to verify best in class contractor practices. This approach will enhance the Department's existing performance-based management system by moving from transactional oversight to a systems-based approach for contractor management. The contractor performance criteria will be limited in number and focus on results and systems-based metrics to drive improved performance and increased effective and efficient management of the laboratories.

4. **Contractor Accountability:** The laboratory contractors must adopt contract-based, best-in-class management practices and an integrated management system, achieve formal external certification of their management systems, and use DOE directives in cases where there is a unique departmental function without an industrial process counterpart.
5. **Vision:** The contractor must develop a compelling vision for the 5-year duration of the contract and a work plan to accomplish it.

The contract statement of work should include: contractor delivery of outstanding, world-class science and technology in an environmentally safe, secure, and efficient laboratory; external recognition of the laboratory's best management practices and cost-efficiency accomplishments and of its ability to attract and retain an outstanding work force; ensure trust within the community; and gain measurable recognition from the public, its peer laboratories, the scientific community, and the Department.

6. **Incentives:** In addition to financially-based incentives and related performance objectives and metrics, the Department will consider novel, non-financial incentives to promote improved contractor performance and accountability, including authorizing contract extensions (e.g., after 3 years of outstanding performance, authorize a contract extension of another 2 years to the 5-year contract for a term of 7 years).

Although some of these principles will require continued development and implementation, I expect that contracts based on the six principles will lay the strong foundation required for the successful restructuring of Federal and contractor oversight of our laboratories.

The principles should be used in developing the negotiation strategy for each of the three SC laboratory contracts, which should include consideration and identification of clauses and DOE Orders to be revised, deleted, or replaced by existing national standards in the proposed contract, and an approach to obtaining

the contractor's commitment to improve effectiveness and efficiency and enhance accountability in managing the laboratory.

I have asked Mr. Steve Silbergleid, Chicago Operations Office, to head an SC contract team to use the SC Working Group principles, along with other related departmental initiatives, such as the Office of Procurement and Assistance Management's review of DOE Orders, in guiding the development of the negotiation strategy for each of the three SC laboratories. The SC Working Group will provide whatever support the field may require through completion of the three SC laboratory contracts.

This breakthrough management initiative will assist the Department's efforts to gain savings in SC laboratory programs, improve the cost-effective management of risks, and increase efficiencies in Federal oversight of our contracts. These principles will be the foundation for the development of more comprehensive contract statements of work that clearly articulate the Department's requirements to the contractor, a compelling vision for DOE and laboratory expectations over the term of each laboratory contract, and a streamlined performance measurement and oversight approach that builds trust and enhances accountability through the implementation of validated best in class management systems.

Therefore, I am urging all of the DOE program elements under my cognizance to help marshal support in timely responses and decisions to the SC contract team, as well as each individual negotiating team, for the success of this initiative. I am seeking comparable support from all of the administrative and operations organizations who are vital to carrying it out. I will work closely with Under Secretary Gordon and the National Nuclear Security Administration staff, who are undertaking a similar initiative to improve management performance of laboratories and other operations under their purview. I am available to the SC contract team to assist in timely decision making for the three SC laboratory contracts.

cc: Mr. Richard H. Hopf
Director, Office of Procurement and Assistance
Management



The Secretary of Energy
Washington, DC 20585

May 12, 2003

MEMORANDUM FOR HEADS OF ALL DEPARTMENTAL ELEMENTS

FROM: SPENCER ABRAHAM *Spencer Abraham*

SUBJECT: Clarification of Roles and Responsibilities

As we move forward in our efforts to improve performance management through a combination of re-engineering and restructuring in various Departmental elements, it is important to emphasize and clarify organizational roles and responsibilities. My views on Federal and contractor roles and responsibilities are well reflected in the guidance provided by Under Secretary Card in his April 30, 2002, memorandum, "Principles for Office of Science Contracting," and the guidelines established in the National Nuclear Security Administration's (NNSA) February 25, 2002, report to Congress on its proposed reorganization.

The following guiding principles are generally applicable across the Department:

- The Secretary of Energy, supported by and acting through various staff offices, is responsible for departmental strategic planning and providing overall policy direction.
- The Heads of departmental programs are responsible for tactical planning, policy implementation, and the provision of program (line management) direction.
- The Federal site manager is responsible for the implementation and integration of policy and program direction at the site level, and the contracting officer is responsible for the award and administration of contracts consistent with program and policy direction.
- The Federal contracting officer and his/her designated contracting officer representatives are the only parties authorized to direct a contractor consistent with the terms and conditions of the contract.
- The contractor is responsible for achieving contract performance objectives as well as complying with contract terms and conditions and, as contractually authorized, the direction of the contracting officer and his/her designated contracting officer representatives.
- DOE contracts shall, to the maximum extent practicable, apply performance-based contracting techniques under which the contract will define "what" is to be done, and not "how" it will be done.



- The Office of Independent Oversight and Performance Assurance is the Secretary of Energy's lead agent for independent evaluation of DOE line management and contractor performance in the area of safeguards and security; cyber security; environment, safety and health; and emergency management.

I ask that the Heads of Departmental Elements reinforce these guiding principles to their respective staffs and ensure their practice.

Attachment:
Hamre Report Recommendation 1-1

Issue:

1-1 Clarify line management and staff responsibilities

Background:

The Commission recommended a management approach consisting of:

- No more than three federal line managers (Under Secretary, Program Assistant Secretary, Field Manager/Contracting Officer) between the Secretary and a laboratory director.
- Only a DOE line manager can give direction to a laboratory director and only the laboratory director can give direction to laboratory line managers.

The Commission asserts that DOE is characterized by a lack of clear authority and accountability, in general, and in all operational matters at the laboratories in particular.

The Commission endorses delegations of *programmatic* responsibilities (**what** to obtain from the laboratory) to other Federal managers, but not *operational* responsibilities (**how** to produce the result), which is a line management responsibility.

Sensitivities:

The National Nuclear Security Administration (NNSA) and Office of Science (OS) are engaged in restructuring organizational initiatives that meet this Commission recommendation. Both NNSA and SC will have their laboratory site managers report directly to Headquarters and be the contracting officer and single point of Federal line management accountability for the laboratory contract.

Departmental Response:

The Department agrees with the Commission's recommendation.

The Secretary should accept the recommendation, but allow flexibility in determining the appropriate number of line management positions. During the last year, the Department has made efforts to reinforce that only a Federal line manager can direct a change in how a laboratory director performs work. This policy is incorporated into DOE Orders and Directives and management systems. In addition, Under Secretary Card's memorandum, "Principles for Office of Science Laboratory Contracts," dated April 30, 2002 is directly relevant. The first principle states that the Department will establish clear line management accountability (through a single Federal official) for laboratory performance with a strong focus on mission success and

with authority to integrate administrative and operations requirements into program missions.

NNSA has taken steps in this effort, which General Gordon announced in his February 25, 2002 report to the Congress on the re-alignment of the NNSA organization structure designed to clarify roles and responsibilities at Headquarters and in the field. This will help to differentiate the distinction between "line" and "staff" functions. Decision-making responsibilities will also be moved from Headquarters staff to Federal line managers in the Field.

Secretary Abraham should issue a Departmental endorsement of Under Secretary Card's and Under Secretary Gordon's reengineering initiatives.

SC expects to activate a new organizational structure in the first quarter of FY 2003. NNSA is scheduled to implement its plan by December 31, 2002.



The Secretary of Energy
Washington, DC 20585

May 12, 2003

MEMORANDUM FOR HEADS OF ALL DEPARTMENTAL ELEMENTS

FROM: SPENCER ABRAHAM *Spencer Abraham*
SUBJECT: National Security Decision Directive-189

The Commission on Science and Security in the 21st Century was established to assess the challenges facing the Department of Energy in operating premier scientific institutions in a manner that fosters scientific excellence, while protecting and enhancing national security. The Commission provided me its report in May 2002.

Measures to control and protect fundamental research were among the issues the Commission studied. The Commission recommended that President Bush reaffirm National Security Decision Directive-189 (NSDD-189), issued in 1985. NSDD-189, which generally exempted fundamental research from security regulations, states that in part that "...to the maximum extent possible, the products of fundamental research remain unrestricted. No restrictions may be placed upon the content or reporting of federally-funded fundamental research that has not received national security classification, except as provided by U.S. Statutes."

The Assistant to the President for National Security, Dr. Condoleezza Rice, recently advised that the key to maintaining U.S. technological preeminence is to encourage open and collaborative basic research.¹ She indicated that in the interim prior to completion of a broad-based review of technology transfer controls, the policy on the transfer of scientific, technical, and engineering technology as set forth in NSDD-189 remains in effect and should be followed. This means that unless a legal basis exists to control such research (either by classification or some other means), it shall not be controlled.

Please ensure that this policy is distributed within your organization and understood by affected parties. Any issues with applying this policy should be submitted to the Head of your departmental element.

¹ See 11/1/01 letter to Dr. Harold Brown, co-Chairman, Center for Strategic and International Studies in Appendix K of the Commission Report.

Attachment
Hamre Report Recommendation 3-14



Printed on recycled paper

3-14 Seek reissuance of President Reagan's National Security Decision Directive 189 (NSDD-189) to reaffirm that fundamental research is generally exempt from security regulations and that any controls can be imposed only through a formal process established by those regulations.

Background:

NSDD-189 remains in force, but too few government security and management personnel know about it. The Commission believes that reissuing NSDD-189 would have a very positive effect in changing perceptions in Washington and would strike a healthier balance between open and collaborative science and the imperatives of national security at the laboratories.

The fundamental research exemption was confirmed in a November 1, 2001, letter from Condoleezza Rice, Assistant to the President for National Security Affairs to Harold Brown, Co-Chairman of Center for Strategic International Studies (see attachment). The letter states, "In the context of broad-based review of our technology transfer controls that will begin this year, this Administration will review and update as appropriate the export control policies that affect basic research in the United States. In the interim, the policy on transfer of scientific, technical and engineering information set forth in NSDD-189 shall remain in effect, and we will ensure that this policy is followed."

Sensitivities:

NONE

Departmental Response:

The Department agrees with the Commission's recommendation.

The Secretary will send a memorandum to DOE Headquarters and field offices and the laboratories reconfirming the importance and validity of NSDD-189.

Attachments

THE WHITE HOUSE
WASHINGTON

November 1, 2001

Dear Dr. Brown:

Thank you for conveying the concerns of the Council on the Future of Technology and Public Policy regarding export controls and fundamental research. On behalf of the President, I would like to respond to your comments on this matter.

The key to maintaining U.S. technological preeminence is to encourage open and collaborative basic research. The linkage between the free exchange of ideas and scientific innovation, prosperity, and U.S. national security is undeniable. This linkage is especially true as our armed forces depend less and less on internal research and development for the innovations they need to maintain the military superiority of the United States. In the context of broad-based review of our technology transfer controls that will begin this year, this Administration will review and update as appropriate the export control policies that affect basic research in the United States. In the interim, the policy on the transfer of scientific, technical, and engineering information set forth in NSDD-189 shall remain in effect, and we will ensure that this policy is followed.

Again, thank you for your views on this important matter. I hope that we will be able to draw upon the Council's expertise as we review this issue in the coming months.

Sincerely,



Condoleezza Rice
Assistant to the President
for National Security Affairs

Dr. Harold Brown
Co-Chairman
Center for Strategic & International Studies
1800 K Street, N.W.
Washington, D.C. 20006