

**DEPARTMENT OF ENERGY (DOE)  
RESEARCH AND TECHNICAL ASSISTANCE PROGRAM  
AT OAK RIDGE NATIONAL LABORATORY (ORNL)  
FOR U.S. STATE AND LOCAL GOVERNMENT ENTITIES<sup>1</sup>**

**Legal Authority**

The DOE sponsors a research and technical assistance program, called the Work For Others (WFO) program, for U.S. State and local government entities. DOE is authorized to supply technical assistance and to make arrangements for conducting research and development activities with States and their political subdivisions. This work activity includes participating in joint or cooperative research, developmental, or experimental projects. The authority for this activity is in statutes such as the Atomic Energy Act of 1954 and the Intergovernmental Cooperation Act of 1968 (P.L. 90-577). DOE also uses the general parameters of the Office of Management and Budget (OMB) Circular A-97 in executing this assistance.

**Why come to DOE?**

The U.S. government's interest in furthering industrial competitiveness and scientific advances encourages innovative approaches and solutions to technical, infrastructure, educational, and social problems facing U.S. States. This U.S. governmental concern translates into having scientific and technology resources available to give various options in solving issues. The U.S. government's considerable investments in basic technology research and development have produced a substantive scientific foundation of knowledge in the National Laboratory system. For DOE, their intent is to:

- (1) encourage intergovernmental cooperation in the conduct of specialized or technical services and provisions of facilities essential to the administration of State or local governmental activities; and,
- (2) enable State and local governments to avoid unnecessary duplication of special service functions.
- (3) capitalize on previous U.S. government funded work which can materially assist a State or local Government in its responsibilities in such diverse areas as homeland security, counter-terrorism, energy planning and analysis, or transportation systems assistance for an Intelligent Transportation System.

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<sup>1</sup> As of October 11, 2010. Prepared by David Bradford, ORNL Work For Others (WFO) Program Office at (865) 574-9798 or by [bradforddw@ornl.gov](mailto:bradforddw@ornl.gov)

## Available DOE Research and Technical Services

As a general rule, DOE will furnish "specialized or technical services" to a State government or to a local government based on the variety of statutes and also OMB A-97 circular criteria.

These "specialized or technical services" are services such as ". . . statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and any other similar service functions" which DOE is especially equipped and authorized by law to perform. These services are divided into the following components:

- (1) Any existing statistical or other studies and compilations, results of technical tests and evaluations, technical information, surveys, reports, and documents, and any such materials which may be developed or prepared in the future to meet the needs of the Federal Government or to carry out the normal program responsibilities of the Federal agencies involved.
- (2) Preparation of statistical and other studies and compilations, technical tests and evaluations, technical information, surveys, reports, and documents, and assistance in the conduct of such activities and in the preparation of such materials, provided they are of a type similar to those which the Federal agency is authorized by law to conduct or prepare.
- (3) Training of the type which the Federal agency is authorized by law to conduct for Federal personnel and others or which is similar to such training.
- (4) Technical aid in the preparation of proposals for development and other projects, for which the Federal agency provides grants-in-aid or other assistance, provided such aid primarily strengthens the ability of the recipient in developing its own capacity to prepare proposals.

Technical information, data processing, communications and personnel management systems services which the Federal agency normally provides for itself or others under existing authorities.

Additionally, upon request, DOE will furnish reimbursable services in the following areas:

- Basic Research
- Applied Research
- Applied Development
- Technical Analyses or Specialized Scientific Studies
- Data Sampling/Confirmation
- Prototype Development
- Objective Consultation
- Essential Engineering Design and Development
- Model Fabrication
- Manufacturing of Specialized Materials or Components
- Engineering and Technical Services

DOE determines the decision criteria on what work can be done if it is within the special scientific and technical capabilities of the DOE management and operating (M&O) contractor.

### **DOE Relationships with its Performance-Based Contractors**

DOE competitively awards M&O contracts under the authority of 48 CFR Subpart 17.6 to manage and operate DOE facilities. These performance-based M&O contractors are financially integrated with DOE and operate under strict DOE controls and guidelines. A DOE M&O contractor, UT-Battelle, LLC, manages and operates the scientific and research facilities of ORNL under the control of the DOE Oak Ridge Office (DOE-ORO). UT-Battelle, LLC, is a distinct "arms-length" subsidiary of its parent organizations (the University of Tennessee and Battelle Memorial Institute) and is established exclusively to perform work assigned by DOE-ORO, including work which DOE-ORO accepts from State and local governments. A DOE M&O contractor performs a completely different role as a financially-integrated contractor of DOE versus a contractor who fulfills a Government-Owned-Contractor-Operated (GOCO) function within other federal agencies. This distinction is vital to understanding the role that DOE plays in technology research and applied development for the U.S. government, U.S. States and local U.S. governments.

DOE-ORO establishes the programmatic controls, oversight functions, customary reporting information, and general categories and procedures for the overhead cost structure for the M&O contractors. DOE approves all overhead rate categories.

### **DOE Administrative Processing**

DOE-ORO accepts taskings from the non-federal governmental sector to meet research or technological requirements. DOE-ORO authorizes work that is consistent with its overall mission and is relevant to the ORNL unique capabilities, specialized expertise, singular facilities, or derived competencies. For the State or local government agency seeking help and prior to work beginning, ORNL researchers will prepare for DOE approval a research proposal describing the work to be performed. Upon approval, DOE-ORO will formally notify ORNL that contract negotiations with a State or local governmental entity can begin.

Research or technical efforts on a project can be done under a Material or Services Order Form (MSOF) which is a one page abbreviated contract between the DOE M&O Contractor and the requesting State agency or local governmental unit if there are no intellectual property (patents, trademarks, copyrights) concerns involved. When the State or local governmental unit has proprietary information involved that needs to be protected, then a Proprietary Information Agreement disclaimer can be signed and attached to the MSOF. *The State or local governmental entity's proprietary information associated with the research or technical development will be protected and safeguarded from disclosure at all times.*

If there are special requirements for intellectual property information that need to be addressed, a Work For Others agreement will normally be used. There is a standard DOE version applicable to U.S. State governments. This is a DOE previously-agreed-to set of uniform contractual clauses for research and development contracts which will expedite arranging the legal commitment between the State or the local governmental unit and the DOE M&O Contractor. However, if the DOE standard language is not acceptable to the State or local governmental unit, a negotiated contract may be done.

### **Administrative Recovery of DOE Program Costs**

Based on Section 3137 of the National Defense Authorization Act of 1999 (Public Law 105-261), DOE is authorized to charge a flat 3% surcharge to cover DOE administrative processing and overhead costs. This surcharge is Federal Administrative Charge (FAC) and the FAC is charged on all non-DOE funded work effective October 1, 1998. However, state governments and local governmental entities are statutorily excluded from paying the FAC.

Furthermore, as part of the annual DOE Administrative Appropriation from Congress, funds are identified to furnish an advance payment for charges incurred by the State or the local governmental unit for work under the MSOF or a DOE WFO agreement. This provision of advance funding by DOE is contingent upon the State that is requesting assistance to have either a State Constitutional prohibition or a State statutory ban in making advance payments. In essence, DOE will make the advance payment for the funding for the State or local governmental entity until the routine billing cycle is established. The State or local governmental entity is fully responsible for paying all incurred charges for the work or services furnished them by ORNL. During the conduct of the project, ORNL will invoice monthly for accumulated expenses (that is, funds spent) against the project. It is the responsibility of the requesting state governmental agency to pay that invoice.