

U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

MD 11.7	NRC PROCEDURES FOR PLACEMENT AND MONITORING OF WORK WITH THE U.S. DEPARTMENT OF ENERGY (DOE)	DT-12-02
<i>Volume 11:</i>	Procurement	
<i>Approved by:</i>	R. W. Borchardt Executive Director for Operations	
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<i>Issuing Office:</i>	Office of Administration Division of Contracts	
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EXECUTIVE SUMMARY		
<p>Directive and Handbook 11.7 are being revised as part of an ongoing effort to improve the agency's Management Directives (MD) program. This revision updates the MD to comply with the most current policies, standards, and procedures. In addition, the handbook has been reorganized to provide clarity, eliminate duplicative sections, and remove most of the exhibits from the handbook, because the exhibits are now available electronically.</p>		

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I. POLICY

- A. It is the policy of the U.S. Nuclear Regulatory Commission to ensure that work placed with the U.S. Department of Energy (DOE) be managed effectively.
- B. This directive and handbook specify the agency responsibilities, authorities, and procedures for placement and monitoring of work with DOE laboratories or DOE facility operators.
- C. This directive and handbook represent the actions necessary to implement the DOE-NRC Memorandum of Understanding (MOU) (refer to Agencywide Documents Access and Management System (ADAMS) Accession Number ML0905107010), dated November 24, 1998, to continue joint activities subsequent to the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).
- D. This directive does not cover procedures for placement of work with Government agencies other than DOE or with commercial contractors.

II. OBJECTIVES

- Ensure that procedures for negotiating and managing agreements with DOE are consistent with sound business practices and contracting principles.
- Ensure uniform application of an agencywide standard of contract management for projects placed with DOE.
- Ensure that a framework exists for program management control, administration, monitoring, and closeout of projects placed with DOE.

III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY

A. Chairman

1. Delegates unlimited contracting authority to the Executive Director for Operations (EDO) to authorize agency procurements at all dollar levels for DOE Agreements.
2. Reviews significant projects with DOE laboratories that may have policy implications for the Commission (matters that may be sensitive, highly visible, have agencywide implications, or otherwise be of high interest to the Commission).

B. Executive Director for Operations (EDO)

1. Delegates contractual authority to the Senior Procurement Executive to execute and modify interagency agreements, including DOE agreements, and settle claims and terminations thereof, with authority to redelegate to the office directors, as appropriate.
2. Delegates authority to the Director of the Office of Administration (ADM) to serve as the agency's Chief Acquisition Officer (CAO).
3. Informs the Chairman, with a copy to the Commission, of significant projects with DOE laboratories that may have policy implications for the Commission (matters that may be sensitive, highly visible, have agencywide implications, or otherwise be of high interest to the Commission).
4. Formally notifies the Commission (within 5 working days) once a determination has been made that a potential organizational conflict of interest (OCOI) will require a waiver.
5. Approves or disapproves the OCOI waiver request as appropriate (after a minimum of 5 working days) following notification to the Commission.
6. Informally notifies the Commission of approval or disapproval of the OCOI waiver request.

7. Informs the Chairman, with a copy to the Commission, of OCOI waiver requests that raise sensitive, highly visible, or agencywide implications for agreements previously approved or reviewed by the Chairman.

C. Deputy Executive Director for Corporate Management (DEDCM)

1. Serves as the agency's Chief Information Officer.
2. Provides senior level oversight of strategic acquisition initiatives and established Portfolio Councils (PCs).
3. Responsible for ensuring that performance reports on DOE acquisitions are provided to the Chairman, the Commission, senior managers, and the staff on a quarterly basis.

D. Office of the Inspector General (OIG)

1. Investigates allegations of fraud, waste, or abuse within the DOE agreement process.
2. Periodically audits NRC's management of DOE laboratory agreements.
3. Provides annual fraud awareness briefings to all NRC Contracting Officer Representatives (CORs).
4. Investigates reported violations of NRC's OCOI rules under DOE agreements.

E. Office of the General Counsel (OGC)

1. Reviews the COR's proposed decision regarding OCOI concerns with work placed or to be placed with DOE laboratories.
2. Reviews and makes recommendations regarding any legal questions concerning work placed or to be placed with DOE laboratories.

F. Director, Office of Information Services (OIS)

1. Provides program guidance, advice, and assistance to NRC offices in obtaining information technology (IT) resources for DOE projects.
2. Reviews and approves documentation and DOE work orders for projects where IT resources (excluding IT supplies) are to be delivered to NRC or the NRC-designee, in accordance with the requirements of NRC Management Directive (MD) 2.8, "Project Management Methodology."
3. Reviews and approves DOE projects that involve IT resources that exceed the threshold referred to in MD 2.8.

4. Provides support to NRC offices, as requested, in preparing the statement of work (SOW) and other documentation for DOE projects involving IT resource acquisitions.
5. Provides assistance to NRC offices, as requested, in the review and evaluation of proposals for DOE work involving IT resources.
6. Approves foreign travel.

G. Director, Office of Administration (ADM)

1. Serves as the agency's Senior Procurement Executive as required by 41 U.S.C. 414, "Executive Agency Responsibilities," and Executive Order 12931, "Federal Procurement Reforms."
2. Develops and directs acquisition policy for NRC/DOE projects.
3. Delegates, as Senior Procurement Executive, contractual authority to the office directors to execute and modify interagency agreements, including DOE agreements, and settle claims and terminations thereof.

H. Office Directors or Designee (Offices Executing DOE Work Orders in Accordance With Delegation of Authority)

1. Execute and modify DOE agreements actions and settle claims and terminations in accordance with delegated authority.
 - (a) Delegations of authority are issued to the appropriate office directors by the Senior Procurement Executive.
 - (b) The list of specific delegations can be found in the MD 11.7 Documents library at <http://portal.nrc.gov/edo/adm/dc/pms/layouts/viewlists.aspx?BaseType=1> (hereafter referred to as "MD 11.7 Documents library").
2. Inform the Chairman, through the EDO, with a copy to the Commission, of significant projects with DOE laboratories that may have policy implications for the Commission (matters that may be sensitive, highly visible, have agencywide implications, or otherwise be of high interest to the Commission).
3. Review and sign requests for a waiver of Commission requirements for avoidance of OCOI.
4. Inform the Chairman, through the EDO, with a copy to the Commission, of OCOI waiver requests that raise sensitive, highly visible, or agencywide implications for agreements previously approved or reviewed by the Chairman.
5. Ensure timely development of and updates to an office advance procurement plan (APP).

6. Appoint CORs.
 7. Appoint an Office Associate Competition Advocate (OACA).
 8. Approve the DOE Source Selection Justification.
 9. Issue request for proposal (NRC Form 189, "DOE Laboratory Project and Cost Proposal For NRC Work") to the cognizant DOE Site or Field Office with a copy to the DOE laboratory.
 10. Authorize and issue NRC Form 173, "Standard Order for DOE Work (SOEW)," and accompanying attachments.
 11. Ensure that the COR properly manages all aspects of the DOE projects assigned.
 12. Ensure that the proposed work does not create an OCOI based on information available to the agency.
 13. Ensure that the COR responsible for the management of DOE laboratory projects attends required training consistent with agency guidelines.
 14. Ensure appropriate review and approval of DOE projects involving IT resources in compliance with MD 2.8.
 15. Ensure that DOE laboratory projects are properly executed, monitored, and closed out and that project results are properly analyzed, evaluated, and disseminated.
 16. Delegate authority to execute DOE agreements to designee in writing.
 17. Ensure proper certification of funds before placement of work with DOE, as described in MD 4.2, "Administrative Control of Funds."
 18. Develop office procedures as necessary to implement directive and handbook requirements.
- I. Budget Director, Division of Planning and Budget (DPB), Office of the Chief Financial Officer (OCFO)**
1. Issues advice of allowances and approved financial plans to allowance holders.
 2. Reviews and concurs on projects requiring senior management review.

J. Controller, Division of the Controller (DOC), Office of the Chief Financial Officer

1. Establishes job codes in the agency accounting system upon request by NRC offices.
2. Maintains records of outstanding DOE unexpended obligations and provides reports to NRC offices.
3. Provides a monthly report to offices for projects with no billing activity for 6 months or more.
4. Records obligations against NRC Form 173 that have been accepted by DOE and forwarded to DOC/OCFO, ensuring use of valid accounting citations. Maintains copies of DOE-accepted NRC Form 173s as official obligating documents.
5. Determines valid accrued costs and records the cost in the accounting system.
6. Receives notice through the U.S. Treasury on the Intergovernmental Payment and Collection System (IPAC) that an electronic funds transfer from NRC to reimburse the DOE has occurred, sends the approval form(s) with any supporting documentation sent by the DOE to the COR for review and approval, follows up on timely (usually 20 days) return of forms, and maintains the signed approval forms on file.
7. Assists offices in identifying erroneous billings. Executes a chargeback to the DOE when notified in writing by the COR that a charge is erroneous and should not be accepted.

K. Director, Information and Records Services Division, Office of Information Services

Advises offices on the preparation and handling of documents containing sensitive unclassified non-safeguards information (SUNSI).

L. Director, Division of Contracts (DC), Office of Administration

1. Serves as the alternate Chief Acquisition Officer.
2. Reviews and concurs on projects requiring senior management review or approval, as appropriate, to ensure that placing the project at a DOE laboratory rather than competing the work in the commercial sector is appropriate and in the NRC's best interest.
3. Oversees office placement and monitoring of NRC/DOE projects through periodic reviews of selected project files.
4. Chairs meetings with the following in order to establish and maintain an agencywide contracting standard:
 - (a) Agencywide DOE Users Group,
 - (b) DOE laboratories,

- (c) DOE headquarters, and
- (d) DOE site or field offices.
- 5. Prepares MDs and guidance memoranda for NRC/DOE projects.
- 6. Establishes policy in conjunction with OGC and other NRC offices to ensure resolution of all OCOI concerns.
- 7. Ensures that detailed and updated DOE laboratory cost and pricing data are provided to NRC offices on an annual basis.
- 8. Conducts utilization reviews of DOE-acquired property to determine availability and use for other NRC requirements.

M. Director, Division of Facilities and Security (DFS), Office of Administration

- 1. Confirms facility approval for classified projects from the appropriate DOE site or field office security organization and notifies the NRC office of this approval.
- 2. Maintains a master facility register for all NRC classified interests at DOE facilities.

N. Director, Division of Security Operations (DSO), Office of Nuclear Security and Incident Response (NSIR)

Advises NRC offices on the preparation and handling of documents containing safeguards or classified information.

O. Branch Chief, Publications Branch, Division of Administrative Services (DAS), Office of Administration

- 1. Develops and issues instructions in conjunction with the NRC offices and DOE for the preparation of reports published in the NUREG series.
- 2. Prints and distributes reports as specified by the agreement, including all reports required by the SOW that are to be made publicly available.
- 3. Issues NUREG-series numbers and maintains pertinent records.

IV. APPLICABILITY

The policy and guidance in this directive and handbook apply to all NRC employees who are involved with the planning, placement and monitoring of NRC/DOE work projects.

V. DIRECTIVE HANDBOOK

Handbook 11.7 contains detailed guidelines, procedures, and management controls for planning, placement and monitoring of work with the DOE.

VI. REFERENCES

Code of Federal Regulations (CFR)

10 CFR Part 20, Appendix G, "Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests."

10 CFR Part 26, "Fitness for Duty Programs."

Federal Acquisition Regulation (FAR)—

48 CFR, Chapter 1, Part 6, "Competition Requirements."

48 CFR, Chapter 1, Section 6.002, "Limitations."

48 CFR, Chapter 1, Part 7, "Acquisition Planning."

48 CFR, Chapter 1, Part 10, "Market Research."

48 CFR, Chapter 1, Part 45, "Government Property."

48 CFR, Chapter 20, Section 2009.570-3, "Criteria for Recognizing Contractor Organizational Conflicts of Interest."

Executive Orders

12931, "Federal Procurement Reforms," October 13, 1994

(<http://www.archives.gov/federal-register/executive-orders/pdf/12931.pdf>).

13526, "Classified National Security Information," January 5, 2010

(<http://www.archives.gov/isoo/policy-documents/cnsi-eo.html>).

Nuclear Regulatory Commission (NRC) Documents

Management Directives—

2.8, "Project Management Methodology."

3.7, "NUREG-Series Publications."

3.53, "NRC Records and Document Management Program."

4.1, "Accounting Policy and Practices."

4.2, "Administrative Control of Funds."

7.4, "Reporting Suspected Wrongdoing and Processing OIG Referrals."

10.6, "Use of Consultants and Experts."

12.2, "NRC Classified Information Security Program."

12.3, "NRC Personnel Security Program."

12.5, "NRC Automated Information Security Program."

12.6, "NRC Sensitive Unclassified Information Security Program."

12.7, "NRC Safeguards Information Security Program."

NUREGs—

NUREG-0650, Rev. 2, "Preparing NUREG-Series Publications."

NUREG-0910, Rev. "NRC Comprehensive Records Disposition Schedule."

Other Documents

The 12-month Employment Cost Index at <http://data.bls.gov/cgi-bin/surveymost>.

DOE-NRC Memorandum of Understanding, "Governing Nuclear Regulatory Commission Funded Work Performed at the Department of Energy Laboratories," November 24, 1998 (ADAMS Accession Number ML0905107010).

"Guidance and Procedures for Federal Acquisition Certification for Contracting Officer Technical Representatives (FAC-COR)," available at <http://portal.nrc.gov/edo/adm/dc/pms/default.aspx>.

"National Industrial Security Program Operating Manual," February 28, 2006, available at <http://www.fas.org/sqp/library/nispom.htm>.

Office of Management and Budget (OMB) Circular No. A-11, "Preparation, Submission, and Execution of the Budget," available at http://www.whitehouse.gov/sites/default/files/omb/assets/a11_current_year/a_11_2010.pdf.

"Work for Others (Non-Department of Energy Funded Work)" DOE Order 481.1C, available at <https://www.directives.doe.gov/directives/current-directives/481.1-BOrder-c/view?searchterm=DOE Order 481.1C>).

United States Code

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Energy Policy Act of 2005, P.L. No. 109-58, Sec. 639, August 8, 2005; S. Report No. 109-100, 109th Cong., 1st Session (June 30, 2005).

Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801 et seq.).

Executive Agency Responsibilities (42 U.S.C. 414).

Experts and Consultants: temporary or intermittent (5 U.S.C. 3109).

Federal Information Security Management Act (FISMA) (44 U.S.C. § 3541 et seq.).

Resource Conservation and Recovery Act of 1976, Subtitle C, "Cradle-to-Grave Requirements" (42 U.S.C. § 6901 et seq.).

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I. INTRODUCTION

A. Overview

1. The U.S. Nuclear Regulatory Commission follows an agencywide standard for project management that applies to NRC/U.S. Department of Energy (DOE) work orders. Application of this standard affords an orderly, fully documented process and ensures that NRC offices carry out their project management responsibilities in a consistent manner. The assigned Contracting Officer's Representative (COR) is responsible for the management of all aspects of a project to ensure the project objectives are accomplished within budget and on schedule.
2. Before being appointed a COR, an individual must be certified by the NRC's Office of Administration (ADM), Division of Contracts (DC), as possessing the minimum qualifications required to perform the COR role. The minimum training and experience requirements necessary to achieve and maintain an NRC COR certification are discussed in Section I.C of this handbook.
3. This handbook describes the COR's major responsibilities during each phase (organized around the Acquisition Phases) of the process:
 - (a) Project Planning,
 - (b) Request for Proposal (RFP) Preparation and Issuance,
 - (c) Proposal Evaluation and Discussion,
 - (d) Work Authorization and Initiation,
 - (e) Project Administration, and
 - (f) Work Termination and Project Closeout.

B. Project Roles and Responsibilities

1. NRC Contracting Officer's Representative
 - (a) The term COR is used throughout this handbook, consistent with Government-wide use of this term. At the NRC, the Project Officer is frequently assigned COR duties, but some of these duties may also be assigned to other individuals. However, any changes that impact cost, schedule, or overall scope must be authorized by the COR and the designating official (as specified on NRC Form 173).
 - (b) Integrates the technical, cost, and administrative aspects of the project to ensure that tax dollars and fees collected from NRC-regulated organizations are wisely spent in

support of the NRC mission. Specifically, the COR develops the advanced procurement plan (APP), statement of work (SOW), and independent Government cost estimate (IGCE) in collaboration with management.

- (c) Maintains a complete file in accordance with agency practice to ensure that auditors or follow-on CORs are able to understand the project and the rationale for decisions made.
 - (i) Specifically, the file documents why and how these funds were expended and what the project accomplished.
 - (ii) The official file describes the complete story of the project in a disciplined, organized manner. The official file provides sufficient detail to enable a third party to answer questions about how the project supported the NRC's mission. For required file documentation, see Section IX, "Documentation and Filing."
 - (d) Identifies any possibility of a personal conflict of interest (COI) or an organizational conflict of interest (OCOI) that might jeopardize the results of the project. If the COR identifies a possible conflict, he or she immediately refers the potential conflict to DC and to the Office of the General Counsel (OGC) so that the conflict is avoided, eliminated, or mitigated.
2. Office Associate Competition Advocate (OACA)
- (a) NRC office director or designee designates in writing the NRC Office Associate Competition Advocate (OACA). A sample OACA designation memorandum can be found in the Procurement Oversight Guidance within the MD 11.7 Documents library available at http://portal.nrc.gov/edo/adm/dc/pms/_layouts/viewlists.aspx?BaseType=1 (hereafter referred to as "MD 11.7 Documents library"). It is recommended that OACA's have training and/or experience in the areas of OCOI, market research, and DOE laboratory agreements. In addition, the OACA may benefit from pursuing requirements for FAC-COTR certification as discussed in Section I.C.3 in this handbook.
 - (b) Performs an independent review of the source selection justification (SSJ) for placing all work with DOE laboratories and the SOW to determine whether the facts and rationale presented by the NRC COR support the criteria for placement of work with DOE. See Section II.C of this handbook before recommending approval or disapproval to the office director or designee.
 - (c) Ensures that there is no duplication of other NRC's projects that are already proposed, in progress, or completed.

- (d) Reviews project management briefing documents prepared for senior management, as appropriate.
- (e) Recommends alternate sources to the COR to accomplish the work, if appropriate.
- 3. Office of Administration (ADM), Division of Contracts (DC)
 - (a) Provides oversight for NRC work placed with DOE and its contractors.
 - (b) Reviews the SSJ before award, in accordance with the current agency criteria for review. The current guidance is in the MD 11.7 Documents library and is entitled “Guidance For Submission Of The Source Selection Justification To The Division Of Contracts For Independent Review.”
 - (c) Conducts periodic office file reviews to ensure that DOE laboratory projects are being accomplished in accordance with the guidelines outlined in this handbook. These reviews help to ensure consistent adherence to sound contract management practices and provide constructive feedback to the office, including specific findings and recommendations for improvement. The File Review Checklist, used by DC, is available in the MD 11.7 Documents library, available at <http://portal.nrc.gov/edo/adm/dc/pms/MD%20117%20Documents/Forms/AllItems.aspx>.
 - (d) Maintains a listing of NRC’s certified CORs with supporting training documentation.

C. Training Requirements

- 1. NRC requires that individuals receive mandatory training in order to become an NRC certified COR.
- 2. The manager is responsible for ensuring that all mandatory training requirements are met before assignment of an individual as the COR on a DOE agreement.
- 3. The acquisition training curriculum for COR certification is available at the MD 11.7 Documents library in the “Guidance and Procedures for Federal Acquisition Certification for Contracting Officer Technical Representatives (FAC-COTR),” at <http://portal.nrc.gov/edo/adm/dc/pms/default.aspx>.

D. Use of NRC Documents and Exhibits

The NRC documents listed in this handbook are available in the MD 11.7 Documents library and contain preparation guidance. Their prescription for use is addressed in the applicable section of this handbook. Exhibit 1 of this handbook presents definitions. Exhibit 2 of this handbook presents acronyms.

II. ACQUISITION PLANNING

A. Project Planning

1. The COR shall strive to ensure acquisitions are coordinated and integrated in order to support fulfillment of the agency need in a timely manner and at a reasonable cost. To support the strategic acquisition process, CORs shall review ongoing and future requirements taking into consideration the following:
 - (a) Past history (Spend Analysis),
 - (b) Market research,
 - (c) Socio-economic requirements, and
 - (d) Funding constraints.
2. Once the requirement has been identified and prioritized, the office shall define the general scope, objectives, and goals.
3. The office director or designee identifies the COR and the project team to develop the project objectives. The objectives address the purpose of the work by defining the expected outcome of the project. Clear and concise objectives will help determine acquisition strategy. Market research is used to identify any viable acquisition alternatives, including the following:
 - (a) In-house efforts,
 - (b) Placing the work with a DOE laboratory,
 - (c) Other Interagency Agreements (IAAs), or
 - (d) Placing work with a commercial contractor.
4. See the MD 11.7 Documents library and the DC SharePoint site for additional guidance on market research.
5. The COR develops the detailed acquisition strategy around the selected course of action. The major considerations of acquisition planning should be addressed regardless of NRC cost review threshold.
6. Senior management must review or approve the following acquisitions in accordance with the current guidance available on the MD 11.7 Documents library:
 - (a) Acquisitions that reach an established cost threshold (currently \$1,000,000); and
 - (b) Acquisitions that support efforts of significant interest to the Commission.

-
7. The COR should refer to the MD 11.7 Documents library for current guidance on the requirements for criteria for senior management review and approval.
 8. At the NRC, when placing work with a DOE laboratory is the selected course of action, the COR shall follow the guidance in this MD and handbook.

B. Advance Procurement Plan

1. Based on the project development schedule and funding availability, the COR prepares the APP and updates it quarterly, as needed. The COR should refer to the MD 11.7 Documents library and the office guidance for current APP procedures. All planned projects are reflected in the APP regardless of the source of funds used to perform the work, including DOE agreements. The project period of performance should normally not exceed 5 years, as discussed in Section II.G.11 of this handbook.
2. New projects and modifications to existing projects, as well as task orders (TOs), must be included in the APP.

C. Source Selection Justification

1. NRC adheres to the FAR Part 6, "Competition Requirements." Specifically, NRC adheres to FAR 6.002, "Limitations," which states the following: "No agency shall contract for supplies or services from another agency for the purpose of avoiding the [competition] requirements of this part."
2. The COR shall prepare NRC Form 367, "DOE Source Selection Justification," under the following circumstances:
 - (a) The acquisition strategy is to award a new agreement to a DOE laboratory, or
 - (b) During the administration of an existing agreement, "new work" is to be added through contract modification.
3. If the new work is outside the scope of the original agreement, then it must be supported with a new SSJ. The scope of an agreement is always subjective and can be controversial. The basic question to ask is whether or not an anticipated action is what both parties actually contemplated when they signed the agreement. Scope analysis is not mechanical but requires an integrated assessment of multiple factors, including specifications in the SOW, cost, and performance period.
4. The COR is responsible for preparing the justification. The supporting information must document the market research results and criteria for using a DOE laboratory as opposed to a commercial source.

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5. Market research is an ongoing process and is discussed in detail in FAR Part 10, "Market Research." Market research is based, in part, on the following:
 - (a) Contacting knowledgeable individuals in Government and industry regarding market capabilities;
 - (b) Reviewing technical or scientific papers, journals, and business publications; and
 - (c) Publishing formal requests for information in technical or scientific journals or in the Government's FedBizOpps, as a Sources Sought Announcement.
 - (i) A Sources Sought Announcement may be requested by the COR or the Office Associate Competition Advocate (OACA) of the requesting office.
 - (ii) Offices are encouraged to publish an annual notice for some or all of the planned actions for the upcoming year. ADM/DC will conduct sources sought inquiries upon request. See the MD 11.7 Documents library for additional guidance on market research.

 6. When completing the SSJ, the COR must cite and support one or more of the following criteria for using a DOE laboratory rather than a commercial source:
 - (a) Unique Technical Disciplines or Combinations of Disciplines
 - (i) Unique technical disciplines or combinations of disciplines may call for placement of work with a DOE laboratory when there is a reasonable basis to conclude that the agency's minimum needs can only be satisfied by a DOE laboratory possessing unique technical capabilities, or
 - (ii) A unique combination of technical skills, and
 - (iii) Highly specialized experience is necessary to undertake and successfully complete the project.
 - (b) Specialized Facilities or Equipment

Specialized facilities or equipment may be necessary when the effort requires their use to successfully complete the project.
 - (c) Use of Patents, Copyrights, Proprietary Information, or Secret Processes

Use of patents, copyrights, proprietary information, or secret processes may be required when the following apply:

 - (i) One or a combination of patents, copyrights, proprietary information, or secret processes are essential to the successful completion of the effort; and

(ii) The requirement cannot be revised to permit competition and open disclosure in the commercial sector.

(d) Accrued Knowledge and Equipment or Facilities

Accrued knowledge and equipment or facilities may necessitate timely placement of work with DOE when another source cannot realistically perform the necessary work without expending significant time and effort to understand previous project work and achieve results that are essential to the successful completion of the current project phase. In these cases, the agency does not have the time or financial resources to permit another source to undertake the current phase of the requirement. This criterion should not be used for follow-on work without sufficient market research to confirm the lack of a viable commercial source.

(e) Urgent Requirements

Urgent requirements may necessitate immediate initiation of work under a project in order to fulfill the office mission. The basis for the urgency, as determined by the NRC division director or designee, shall be documented and placed in the file as soon as practicable. However, this requirement shall not delay placing the work. The use of this criterion is not appropriate if the urgency is due to the lack of planning and/or funding. Work that is subcontracted out by a DOE laboratory does not meet the urgency criterion.

(f) Engineering, Developmental, or Research Capability

Award to a DOE laboratory is supported if DOE headquarters and/or NRC determine that the work under the project supports essential engineering, research, or developmental capability or facilities at the DOE laboratory that must be maintained in the event of a national emergency.

7. In DOE Order 481.1C, "Work for Others (Non-Department of Energy Funded Work)," DOE does not accept work that puts it or its contractors "in direct competition with the domestic private sector." Therefore, unless Section II.C.6(f) of this handbook is cited as the reason for award, the conclusion of the SSJ will include the following statement: "Based on my knowledge of the technical requirements and the market research conducted, the work requested will not place DOE and its contractors in direct competition with the domestic private sector."
8. The OACA performs an independent review of the SSJ and SOW to determine if the facts and rationale presented support the COR's conclusions. As part of this review, the OACA also ensures that this project is not a duplication of other NRC projects.

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9. The SSJ shall be signed and dated by the COR, the OACA, and the office director or designee. If acting as the office director or designee, the COR may not sign his or her own SSJ in that capacity. The title of the person's position is acceptable as long as there is written delegation of authority on file with in accordance with the Delegation of Authority letters on file in the MD 11.7 Documents library. The COR shall include the approved SSJ with all the supporting documentation in the agreement file.
 10. DOE SSJs will be reviewed by DC in accordance with the current criteria for pre-award review available on the MD 11.7 Documents library to ensure the supporting data clearly supports an award to a DOE laboratory.
 11. DOE SSJs will also be reviewed by DC during post-award random file reviews conducted annually.

D. Organizational Conflict of Interest

1. The Memorandum of Understanding (MOU) between NRC and DOE entitled "Governing Nuclear Regulatory Commission Funded Work Performed at the Department Energy Laboratories," effective November 24, 1998, sets out the NRC/DOE OCOI requirements (Agencywide Documents Access and Management System (ADAMS) Accession Number ML0905107010).
2. Procedures for Implementing NRC OCOI Requirements
 - (a) The MOU requires that the DOE laboratories disclose any potential or actual OCOI with respect to the NRC's SOW.
 - (b) These requirements are implemented, in part, by inclusion of the OCOI clause in the following documents: all RFPs and resulting awards for all Task Ordering Agreements, TOs, and stand-alone DOE agreements. (See MD 11.7 Documents library.)
 - (c) If a modification resulting in an increase in the scope of an SOW is necessary, then the clause will be included in the RFP modification and in the resulting modification.
 - (d) The OCOI clause applies to *all* DOE subcontractors, regardless of whether they are organizations or individual consultants.
 - (e) The OCOI clause requires that DOE laboratories review their past, current, and planned future work for others and disclose the following in their proposals using NRC Form 189, "DOE Laboratory Project and Cost Proposal for NRC Work":
 - (i) Any work that is being performed for DOE or others which is in the same technical area, or

- (ii) Any work that is being performed for DOE or others that is similar to the work described in NRC's SOW.
 - (f) Usually, DOE laboratories are only required to review their past work from the last 5 years.
- 3. If Section II.D.2(e) applies, then the DOE laboratory should disclose the following information in its proposal:
 - (a) The scope of work (including specifications) performed, being performed, and/or planned to be performed by the DOE laboratory;
 - (b) The period of performance;
 - (c) The dollar value of the work; and
 - (d) The name and telephone number for a point of contact at the DOE laboratory knowledgeable about the work.
- 4. In addition, if Section II.D.2(e) applies, then the DOE laboratory shall disclose any information that may give rise to an OCOI as prescribed by 48 CFR 2009.570-3, "Criteria for Recognizing Contractor Organizational Conflicts of Interest." 48 CFR 2009.570-3 applies under the following circumstances:
 - (a) If the DOE laboratory provides advice and recommendations to NRC in the same technical area in which it is also providing consulting assistance to any organization regulated by NRC.
 - (b) If the DOE laboratory provides advice and recommendations to NRC on the same or similar matter on which it is also providing assistance to any organization regulated by NRC.
 - (c) If the DOE laboratory evaluates its own products or services or has been substantially involved in the development or marketing of the products or services of another entity.
 - (d) If the award of a project would create a conflict for the DOE laboratory in which—
 - (i) The DOE laboratory's judgment could be biased in relation to its work for NRC, or
 - (ii) The DOE laboratory would have an unfair competitive advantage.
 - (e) If the DOE laboratory solicits or performs work at an applicant or licensee site while performing work in the same or similar technical area for NRC at the same site.

5. Criteria for Recognizing OCOIs

- (a) Recognizing and avoiding OCOIs is not always easy. In a competitive environment, the competitors often help identify potential OCOIs. It also is the responsibility of NRC and DOE CORs, as well as the DOE laboratory investigators, to identify potential and actual OCOIs.
- (b) The U.S. Government Accountability Office (GAO), in its OCOI decisions, has generally classified the OCOIs into the following three groupings:
 - (i) The first is called “Biased Ground Rules” and deals with the offeror or its subcontractor(s) being in a position to affect a subsequent competition in its favor. For example, if the DOE laboratory helps develop an SOW as part of an NRC project, which is later used in a competitive procurement, the DOE laboratory could skew the SOW to play to its strengths or that of one of its affiliates. This type of OCOI may be mitigated by including in the SOW that the DOE laboratory and its affiliates are excluded from any follow-on procurements.
 - (ii) The second grouping is called “Unequal Access to Information.” This type of OCOI may also be present in the example above. In this case, the DOE laboratory would have source data that would better prepare them to respond to the subsequent RFP. This type of OCOI may be mitigated by requiring that all data reviewed and/or used for the development of the subsequent SOW be made available to all offerors in the subsequent procurement, or require that any affiliate of the DOE laboratory be excluded from any follow-on procurements.
 - (iii) The third grouping is called “Impaired Objectivity.” An example of this type of OCOI may occur when the laboratories are reviewing standards or technologies that it or one of its affiliates developed. In effect, it is self evaluating, which may impair its objectivity. This type of OCOI is the hardest to mitigate or eliminate.
- (c) Below are additional examples of situations or relationships that may give rise to “Impaired Objectivity” OCOIs.
 - (i) NRC asks DOE laboratory A to review certain aspects of an accident analysis code for nuclear power plants. Laboratory A previously developed the code.
 - (ii) NRC asks DOE laboratory B to assist in maintenance inspections at 10 nuclear power plant sites. DOE laboratory B is developing a comprehensive maintenance program for the nuclear utility industry at the request of the Electric Power Research Institute.

- (iii) NRC asks DOE laboratory C to review the instrumentation and control systems of an advanced reactor design. DOE has applied to NRC for design approval of the same advanced reactor.
- (iv) NRC asks DOE laboratory D to analyze the potential consequences of sodium fires in liquid metal fast breeder reactors (LMFBRs) as part of an advanced reactor design review. DOE is currently funding work performed at DOE laboratory D that supports design enhancements that would mitigate the potential for sodium fires in commercial LMFBRs.

6. COR OCOI Role and Responsibilities

It is the COR's responsibility to screen for potential OCOI's. To make an informed decision regarding potential OCOIs, the COR is responsible for the following:

- (a) Understand the criteria for recognizing an OCOI.
- (b) Analyze the DOE laboratory's proposal, especially any data disclosed pursuant to the OCOI clause concerning the same or similar work performed by the DOE laboratory or its subcontractors and other relationships that the DOE laboratory discloses that may give rise to potential or actual OCOIs.
- (c) Elicit from informed sources all relevant OCOI information. These sources include but are not limited to the following:
 - (i) DOE laboratory's principal investigator,
 - (ii) DOE contracting officer,
 - (iii) NRC staff working on the same or similar matter,
 - (iv) Information on a DOE laboratory's ongoing projects compiled by the cognizant DOE site or field office,
 - (v) DOE laboratory's Web page, and
 - (vi) Information conveyed at symposiums and professional meetings.
- (d) With the three types of OCOIs in mind and after the review and analysis of the relevant information, the NRC COR should ask, "Are there conflicting roles that might bias the DOE laboratory's judgment in relation to its work for NRC?" If the answer to this question is "No," the COR should document this decision in the Summary of Proposal Evaluation, along with the data that he or she relied on to make this decision. Of particular concern is the documentation of the analysis of disclosed data by DOE and its laboratory. This documentation must show that the COR did a thorough analysis of the data and why it does not constitute a potential or actual OCOI.

- (e) If the COR determines that there may be a potential or actual OCOI, then the COR shall comply with the procedures set forth in the following Section II.D.7 of this handbook.
7. Procedures for Addressing Potential OCOI Situations When Identified at DOE Laboratories
- (a) When a COR becomes aware of a situation that poses the potential for an OCOI, the COR should discuss the situation with management and notify the Director of DC.
- (b) The Director of DC will arrange a meeting or a series of meetings with all necessary parties to decide if the potential OCOI gives rise to a real OCOI and, if so, what steps need to be taken to eliminate or mitigate the OCOI. The representatives who meet to discuss the potential OCOI are from ADM/DC, the program office, and OGC.
- (c) The office director or designee makes the final decision on OCOI matters for NRC work placed with the DOE laboratories.
8. Actions that can be taken to eliminate an OCOI include the following:
- (a) Request that the DOE laboratory transfer the non-NRC work that is creating the OCOI to another DOE laboratory.
- (b) Request that the DOE laboratory forgo the work that is creating the conflict.
- (c) Transfer the NRC project, in whole or in part, to another capable source (for example, a different DOE laboratory or commercial firm).
- (d) Stop work until the situation is resolved, if the severity of the issue warrants.
- (e) Generally, the DOE laboratory will be given the opportunity to eliminate the OCOI before NRC's final decision. If NRC's final decision is that an OCOI exists and the requiring office wants the DOE laboratory to do the work even though an OCOI exists, then the office may request a waiver to allow the DOE laboratory to do the work, if it is in the best interest of the Government in accordance with the procedures set forth below.
9. Procedures for Requesting a Waiver of Commission Requirements for Avoidance of OCOIs from the Executive Director for Operations
- (a) It is the policy of NRC to avoid, eliminate, or neutralize OCOIs. However, NRC recognizes that at times, it may be in the best interest of the Government to award projects to laboratories with OCOI issues. Section 170A of the Atomic

Energy Act of 1954, as amended by the Energy Policy Act of 2005, allows NRC to contract for the specialized experience of a DOE laboratory or facility operator, even though an OCOI may exist and cannot be mitigated. However, the statute requires adequate justification to proceed despite an OCOI. Although adequate justification may be based on many different considerations associated with NRC's needs, this authority was not intended for extensive use but is to be limited to "extraordinary circumstances" (per legislative history) when required expertise does not exist elsewhere.

- (b) The agency recognizes that there may be instances in which a DOE laboratory is the only available source to perform vital work for the agency, and the DOE laboratory's performance of this work would give rise to OCOI. In these cases and where the cognizant NRC office wishes to start or continue the project at that DOE laboratory, the cognizant NRC office shall first consult with ADM/DC, and OGC to address in writing the following issues:
- (i) The reason(s) that an OCOI would exist if the DOE laboratory performed the work.
 - (ii) Whether project results have the potential to be biased because the DOE laboratory is performing work in the same technical area or on the same or similar matter for the nuclear industry, or because the DOE laboratory would be reviewing its own work or that of an affiliate, such as a system that the DOE laboratory designed for a licensee.
 - (iii) The contractual and/or technical review and surveillance methods that can be used to mitigate and neutralize the impact of having a DOE laboratory operator with an OCOI perform the project. For example, an independent third party with no OCOI could perform a peer review of the project results. It would also be prudent to request that the DOE laboratory develop a mitigation plan if there are actions that the DOE laboratory can take to mitigate the OCOI. The COR ensures that the plan is dated and signed by an individual who has the authority to commit the DOE laboratory and its management and operating contractor.
 - (iv) An explanation as to why the work is vital to the agency.
 - (v) Alternative sources considered to perform the proposed work and why they are deficient or not feasible. If there is any doubt as to the availability of alternative sources, ADM/DC, in coordination with appropriate program office staff, will publish a "sources sought" market research notice to determine if alternative sources exist to perform the project free of OCOI.

- (c) If, after all relevant information is considered, NRC concludes that only the DOE laboratory with an OCOI can perform the vital work for the agency, then the cognizant NRC office shall prepare a Request for Waiver of Commission Requirements for Avoidance of Organizational Conflict of Interest.
 - (i) The cognizant office director or designee obtains concurrences from the OACA, OGC, and the appropriate Deputy EDO.
 - (ii) The cognizant office director or designee then signs and forwards the waiver to the EDO for consideration.
 - (iii) The required format and additional guidance for the Request for Waiver can be located in the MD 11.7 Documents library.
- (d) The EDO shall formally notify the Commission within 5 working days that a waiver has been received for EDO consideration. Once the EDO has decided to approve or disapprove the waiver, the EDO shall notify the Commission informally of the EDO's intent to approve or disapprove a waiver request.
- (e) If the EDO approves the requested waiver of an OCOI, then the justification and approval documents for the waiver must be placed in ADAMS, subject to applicable law, regulation, or policy on the disclosure of agency documents to the public.
- (f) If the EDO disapproves the waiver, the project shall not commence. For an ongoing DOE project, the cognizant NRC office shall terminate the project or the portion of the project that creates the OCOI as expeditiously as possible in accordance with MD 11.7.
- (g) Through the EDO, the staff shall formally notify the Chairman of the OCOI waiver request. Staff will provide any aspects of the waiver decision that raise sensitive, highly visible, or agencywide implications for DOE and DOE laboratory agreements. Staff also will provide the Commission with copies of the notification.
- (h) The COR is also responsible for identifying a potential or actual OCOI that arises after the project award. In the event the COR becomes aware of potential or actual OCOI issues, the COR shall follow the procedures articulated above.
- (i) If a COR discovers a violation of NRC's OCOI rules regarding any projects, then the COR shall notify the Office of the Inspector General (OIG).

E. Types of DOE Laboratory Actions

1. Stand-alone DOE Agreements

- (a) The Stand-alone Agreement usually referred to as a DOE agreement is the most commonly used arrangement for an overall project. This agreement may have many separate tasks described in the SOW with defined milestones or due dates for each task and their associated deliverables. The agreed-to-cost is for the completion of the entire project; that is, all of the tasks described in the SOW. The cost is usually tracked on the overall project basis but may be tracked on each task if the COR determines that it is necessary.
- (b) If the project is incrementally funded, the funds are obligated as needed for project execution consistent with the expenditure (spending) plan for the agreement.

2. Task Ordering Agreement (TOA)

- (a) A Task Ordering Agreement (TOA) is similar to an indefinite delivery/indefinite quantity (IDIQ) contract. It is useful when only the general requirement or overall project objective is known and the details of the specific tasks under the requirement are not known at the time of the TOA award.
 - (i) The TOA defines the scope of the project in the SOW, including the following:
 - The required technical expertise and the estimated number of staff hours needed,
 - The period of performance for the entire project,
 - The ceiling cost of the total project, and
 - The terms and conditions applicable to the project.
 - (ii) Funds are not obligated on the awarded TOA. Since a TOA is more administratively burdensome than a stand-alone agreement, every effort shall be made to ensure that a TOA is used only when appropriate, similar to an IDIQ contract.
- (b) When the details of a specific task within the scope of the TOA are defined, a Task Order (TO) referencing the TOA is issued with its own SOW, which may include suggested labor categories and staff hours. Each TO is funded separately and may be incrementally funded.
 - (i) When awarded, the TO includes the detailed requirements, the agreed to estimated cost, and the delivery requirements.

- (ii) Funds are obligated on the awarded TO based on an agreed to expenditure (spending) plan for the TO.
- (iii) Obligated funds are tracked by each TO, and the COR must ensure that the sum of the obligations on all the TOs does not exceed the ceiling cost specified in the TOA.

F. Developing the Statement of Work (SOW)

1. Purpose of the SOW

The SOW is the most important element of the entire agreement. The SOW serves as the foundation of every agreement, including TOAs and associated TOs. All other elements of an agreement evolve around the SOW. The SOW provides the DOE laboratory with the information needed to prepare its proposal. The initial SOW and the proposal, together, constitute the basis for discussions answering the question, "What is to be delivered?"

2. Guidelines for SOW Development

(a) Development of the SOW

The NRC COR is the author and independently develops the SOW. The COR, as the steward of public funds, must develop the SOW to define the Government's minimum needs. It is, therefore, unacceptable for a DOE laboratory to prepare or assist in any way with the preparation of the SOW. However, when the NRC's COR determines that it is in the Government's best interest to obtain technical information before developing the SOW, the COR may hold fact finding sessions with the DOE laboratory. These sessions may deal with cutting edge technology, general concepts, methods, DOE laboratory expertise, available equipment, and the general time frames for project completion. Under no circumstances are costs to be discussed.

(b) Subcontracting

The COR must not structure the SOW so that the DOE laboratory is required to subcontract the majority of the project effort or subcontract with a specific contractor. This is considered "pass-through" contracting. It is the DOE laboratory's responsibility to determine the most efficient way to accomplish the project and the selection of its subcontractors, if needed.

(c) Avoidance of Personal Services Relationship

- (i) Personal services relationships occur if the SOW or the actions of NRC personnel create or give the appearance of an employer-employee relationship. For example, Government personnel may create a personal services relationship by preparing contractor work schedules, supervising contractor employees, allowing the contractor to make policy decisions, or using contractor staff interchangeably with Government employees. Personal services contracts, unless specifically authorized by statute (for example, 5 U.S.C. 3109, "Experts and Consultants; temporary or intermittent"), shall not be awarded. In the event an employer-employee relationship is required, it is the policy of the NRC to employ the services of individual consultants and experts by hiring them through the personnel appointment process in accordance with the procedures set forth in MD 10.6, "Use of Consultants and Experts."
- (ii) A definitive SOW safeguards against personal services relationships, as it provides sufficient information to enable the DOE laboratory to work independently without the need for direction. However, the NRC COR is allowed to provide technical direction within the bounds of the SOW and the agreed to terms and conditions. Accordingly, the Government, not its contractors, makes policy decisions and remains accountable for inherently governmental functions that may be based on contractor performance and work products.

(d) No Release of NRC Cost Estimates

Neither the COR's budget nor the IGCE is disclosed to the DOE laboratory. The SOW is provided to the DOE laboratory without the cost estimate in order to require the DOE laboratory to develop its own estimate for the project.

3. Performance-Based SOW

- (a) A performance-based SOW emphasizes the purpose of the work to be performed with the project requirements set forth in clear, specific, and objective terms with measurable outcomes. A performance-based SOW ensures that all aspects of the project are structured around the purpose of the work to be performed. Since a performance-based SOW does not describe how the work is to be done, it gives the DOE laboratory the freedom to propose the most efficient method to meet the project objectives. A performance-based SOW is best suited for commercial supplies and services in which the functionality of the supplies and services are well established and measurable. Payment is tied to achieving these measurable outcomes. These principles can be applied to less defined outcomes, but the DOE laboratory will focus its efforts on the measurable parameters.

- (b) In developing a performance-based SOW, the COR should perform the following:
- (i) Define the desired outcomes by listing what needs to be accomplished in order to satisfy the project's overall requirement. This is a top-level perspective and answers the question: "What must be accomplished to satisfy the requirement?"
 - (ii) Conduct an outcome analysis based on the list of desired outcomes to identify performance objectives. Performance objectives are the tasks you want performed and delivered to the Government. This analysis answers the question: "What tasks must be accomplished in order to achieve the desired outcome?"
 - (iii) Identify the appropriate performance standards and acceptable quality levels using the performance objectives. This step will answer the question: "When and how will I know the outcome has been satisfactorily achieved and at what level of quality?"
 - (iv) Develop a performance requirement summary matrix using the data derived in the three steps above to clearly communicate to the DOE laboratory NRC's desired outcomes and quality requirements.
 - (v) Develop an NRC performance assessment plan based on the performance requirement summary matrix. The plan should state when, where, and how often the assessments will be conducted. The results of the assessments should form the basis of the DOE laboratory's performance evaluations during project monitoring.
 - (vi) A sample SOW, including performance-based elements, may be found in the MD 11.7 Documents library. The sample provides further guidance regarding standard provisions in SOWs for DOE laboratory agreements in keeping with Executive Order 12931, "Federal Procurement Reform," dated October 13, 1994.

4. SOW Special Considerations

(a) Technical Reporting Requirements

- (i) The technical reports required may be classified, sensitive or non-sensitive, or unclassified. The SOW must specify the technical reporting requirements. The technical reports may be one or more of the following:
 - Technical evaluation reports (TERs),
 - Draft or final formal technical reports for publication in the NUREG series, or
 - Draft or final material for inclusion in NRC safety evaluation reports (SERs) or environmental impact statements (EISs) as specified in the following definitions in Sections II.F.4(a)(ii)-(vii) of this handbook.

- (ii) TERs are interim or final letters that provide information on the technical aspects of the work. Interim technical letter reports may be required at various stages of a project. These interim letter reports are usually followed by a final technical letter report or a formal technical report.
- (iii) Interim technical letter reports may include, but are not limited to, informal interim progress reports, quick-look reports, data reports, status summary reports, project descriptions, pretest predictions, model verifications, experimental safety analyses, experimental operating procedures, facility certification reports, and test result reports. These reports must be identified with the job code assigned to the project. The number of copies to be prepared and the distribution of those copies will be specified in the SOW by NRC.
- (iv) Final technical letter reports are usually specified in situations in which the technical work involves the review and evaluation of the work of others or work to be used by the staff in the licensing and regulation process.
- (v) All unclassified technical letter reports that do not contain proprietary information, Safeguards Information (SGI), or other Sensitive Unclassified Non-Safeguards Information (SUNSI) must be made publicly available by the office by sending a copy to the NRC Public Document Room through ADAMS. Each technical letter report must be identified with the job code assigned to the project.
- (vi) Formal technical reports are the final product of research and original investigation or are a significant compilation of information. These accepted formal technical reports will be published in the NUREG-0650 series. Formal monthly, quarterly, or semi-annual and annual technical reports may be required for extensive long-term projects. A draft of the final or periodic report may be requested for comment before preparation of the camera-ready copy.
- (vii) Draft material for inclusion in SERs or EISs consists of written material requested for input in SERs or EISs to be issued as NUREG-series reports. This material may be abstracted and used by the NRC staff as necessary. NRC requires patent review and management review of this material by the DOE laboratory.
- (viii) The content of formal technical reports should follow generally accepted technical writing practices, with appropriate flexibility to meet the author's specific needs. NUREG-0650, Revision 2, "Preparing NUREG-Series Publications," provides additional guidance. The most current version should be cited in the SOW. Scientific and technical reports should not include administrative, managerial, or fiscal information unsuitable for wide dissemination. Further, scientific and technical reports must not contain proposals for additional work.

(b) Monthly Letter Status Reports (MLSRs)

The content and format of the Monthly Letter Status Report (MLSR) is available in the MD 11.7 Documents library, entitled "Monthly Letter Status Report Requirements." The COR must attach a copy of this document to the SOW to ensure DOE's compliance. These monthly reports are required deliverables. The COR is not authorized to waive this requirement without the office director or designee approval. The waiver must be included in the official file.

(c) Information Technology (IT): Systems Development Considerations

If software or hardware systems development is contemplated, the COR, after consultation with the Office of Information Services (OIS) and the Computer Security Office (CSO), shall include specific language in the SOW addressing computer security and quality assurance. In addition, any systems developed by a DOE laboratory must be in a format compatible with NRC equipment and software.

(d) Information Technology (IT): Resource Considerations

- (i) When work to be placed with DOE involves the acquisition of IT resources, additional documentation, reviews, and approvals may be necessary before issuing a request for a proposal to the DOE laboratory. Contact the NRC office IT coordinator to determine documentation review and approval requirements.
- (ii) Similarly, when the proposal received from the DOE laboratory indicates the need for IT resources that were not anticipated in the SOW, the same additional documentation, reviews, and approvals may be required. OIS and CSO can provide specific guidance in this area.
- (iii) When it has been determined that IT resources will be required for DOE laboratory projects, the COR, in consultation with OIS, shall determine whether it is in the NRC's best interests to have the DOE laboratory acquire the IT resources or whether the IT acquisition can and should be separated from the NRC/DOE project and be provided by NRC.
- (iv) When it is in NRC's best interests to supply the IT resources to the DOE laboratory as Government-furnished property, the resources may be available at NRC, obtained through OIS, or acquired from the commercial sector. In the latter instance, NRC Form 400, "Request for Procurement Action (RFPA)," will be developed and sent to ADM/DC to initiate the procurement action.

- (v) Circumstances may indicate that it is in the agency's best interests to have the DOE laboratory purchase the IT resources, as described in the following instances:
 - The specifications for the IT resources required by the DOE laboratory are unique.
 - The schedule for project work calls for delivery of the IT resource at a certain required time and as part of a series of DOE laboratory-controlled efforts when purchasing the IT resource separately could cause project schedule delays.
 - The purchase of IT resources by other than the DOE laboratory is more costly and less efficient.
 - (vi) When IT resources are to be delivered to NRC, OIS reviews and approves the required documentation.
 - (vii) All automated information processing systems developed or used as part of a project effort must be compliant with the Federal Information Security Management Act (FISMA) (44 U.S.C. § 3541 et seq.). Compliance must be demonstrated by a copy of the letter from the DOE laboratory's Designated Approving Authority stating that the system(s) is (are) accredited.
- (e) Waste Characterization, Packaging, and Disposal Considerations
- (i) For projects that will generate chemical or radiological waste, the SOW shall describe those aspects of the project that will result in the generation of waste and the DOE laboratory's responsibility for the characterization, packaging, and disposal of the waste. NRC's financial responsibilities for these activities also should be described. Assistance for projects involved with waste characterization, packaging, and disposal can be provided by the Office of Federal and State Materials and Environmental Management.
 - (ii) Categories of waste streams, materials, components, and facilities that may require characterization, packaging, and disposal include activated metals, contaminated materials, ion-exchange resins, and other low-level waste streams. Characterization of the waste streams should be designed to collect data that will fulfill the requirements of the disposal facility (for example, the data should demonstrate that the waste meets the acceptance criteria of the disposal facility) and the Uniform Manifest requirements of 10 CFR Part 20, Appendix G, "Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests," when that form is needed. The DOE laboratory proposal shall include a copy of

the disposal site manifest requirements that explicitly provide the information required with the shipment.

- (iii) Chemical waste is any waste that includes chemicals (for example, nickel, iron, and ethylenediaminetetraacetic acid, commonly known as EDTA) that are not classified as radioactive waste and require special handling for their disposal. The chemical waste also may need to be characterized to meet the requirements of the waste disposal facility. Mixed waste (waste containing both Resource Conservation and Recovery Act Subtitle C hazardous waste and low-level radioactive waste) shall not be generated without prior express written approval of NRC. The DOE laboratory contractor shall institute measures to minimize the amount of waste generated. If mixed waste streams are accepted by a DOE contractor for analysis, an agreement for dispositioning of the samples (for example, returning to the place of origin) should be established before the sample is accepted for analysis.
- (iv) DOE is responsible for the costs of decommissioning a DOE facility. When a facility, or part of a facility, is dedicated exclusively to an NRC project and the residual radioactivity to be removed during decommissioning can be solely attributed to the NRC project, NRC is responsible for these costs. When an NRC project is conducted within an existing DOE facility, NRC is responsible for costs associated with the removal of project materials and waste, including specialized tooling and equipment, dedicated to that project. These costs shall be explicitly identified and addressed by DOE in accordance with the provisions cited in this section.
- (v) The DOE laboratory proposal shall provide a full description of specific activities necessary for the NRC project including waste characterization, packaging, and disposal activities and the associated costs for conducting these activities for which NRC is responsible.
- (vi) Guidance to determine responsibility for payment of the costs of characterization, packaging, and waste disposal follows:
 - NRC, generally as project designer, is responsible for the costs of characterization, packaging, and disposal of waste when the waste is generated as an essential part of the project.
 - NRC is not responsible for the cost of waste volume generated beyond what can reasonably be expected in the performance of the project because of the DOE laboratory's noncompliance with DOE laboratory policies or other good DOE laboratory practices.

(vii) When NRC is responsible for payment of the costs associated with characterization, packaging, and disposal of waste, the cognizant COR shall be responsible for the following:

- Ensure that the project SOW contains a task for the characterization, packaging, and disposal of waste generated by the project.
- Include, as part of the IGCE, costs for waste characterization, packaging, and disposal.
- Evaluate the DOE laboratory proposal to ascertain whether costs proposed for the waste characterization, packaging, and disposal are reasonable.
- Determine a reasonable amount for these costs and document the basis for the agreement in NRC Form 555, "Summary of Negotiations Interagency Agreements," and NRC Form 558, "Summary of Proposal Evaluation."
- Review MLSRs submitted by the DOE laboratory to ensure that expended costs for the waste characterization, packaging, and disposal are reasonable and in accordance with the project spending plan.

(f) SOW Security Considerations

(i) The COR shall keep apprised of, and adhere to, appropriate policy and regulations found in the following documents:

- MDs in Volume 12, "Security"—
 - 12.2, "NRC Classified Information Security Program,"
 - 12.3, "NRC Personnel Security Program,"
 - 12.5, "NRC Automated Information Security Program,"
 - 12.6, "NRC Sensitive Unclassified Information Security Program," and
 - 12.7, "NRC Safeguards Information Security Program."
- "National Industrial Security Program Operating Manual,"
February 28, 2006, available at <http://www.fas.org/sgp/library/nispom.htm>.
- Executive Order 13526, "Classified National Security Information,"
December 29, 2009 (material related to classified or potentially classified contracts or agreements ensure compliances with security provisions and resolve problems involving access to licensee sites).

- (ii) The COR shall complete NRC Form 187, "Contract Security and/or Classification Requirements," for work requiring access to classified or sensitive unclassified information.
- (iii) The COR must obtain required approvals for use of classified material in a project. The COR should refer to MDs in Volume 12 for guidance on the approval process.

G. Standard Sections of the SOW

1. Basic Project Information

Basic project information required on the first page of the SOW is as follows:

- (a) Project Title (should match APP)
- (b) Job Code Number
- (c) Budget and Reporting (B&R) Number
- (d) Budget Object Classification (BOC) Code
- (e) North American Industry Classification (NAIC) Code
- (f) Technical Assignment Control (TAC) Number (if work is fee-recoverable)
- (g) Docket Number (if work is fee-recoverable)
- (h) Fee-Recoverable or Non-Fee-Recoverable
- (i) NRC Issuing Office
- (j) NRC COR's Name
- (k) NRC COR's Telephone Number
- (l) DOE laboratory
- (m) NRC Technical Monitor(s) Name(s)
- (n) NRC Technical Monitor(s) Telephone Number(s)

2. Background

- (a) The background section provides the following:
 - (i) A brief statement of the purpose of the work;
 - (ii) Discussions of pertinent work previously accomplished; and
 - (iii) Discussions of technical problems, suggested approaches, and possible methodologies for problem solution.

- (b) The background section should also include explanations or constraints that are necessary to understand the requirement (e.g., how the requirement arose and its relationship to previous, concurrent, and future programs) and any details that reveal the purpose and significance of the requirement.
- (c) A well-written, brief discussion of the various aspects of the technical problem sets the stage for the preparation of technical proposals.
- (d) Statements on the importance of the work may be included, along with techniques that have been tried and the results achieved.

3. Objective

This section describes the expected results to be obtained and how the end product(s) will be used in the regulatory process.

4. References (If Applicable)

This section is a list of all applicable documents invoked elsewhere in the SOW. When applicable, mandatory Government regulations and codes are included. The references include the chapter and section in order to pinpoint what is applicable to the SOW.

5. Scope of Work

This section provides a concise description of the work required. Specific tasks to be performed should be delineated and should include required contractor actions. The scope of work should explain if tasks are to be performed concurrently or sequentially. The SOW will state when the requested work is fee-billable. If the scope of work deals with required technical reporting, information technology, and/or nuclear waste, then the COR should consult Section II.F.4, "SOW Special Considerations," of this handbook.

6. Place of Performance or Site Access Required

This section specifies the following:

- (a) The place of performance,
- (b) An indication as to whether site access or unescorted site access will be required, and
- (c) Instructions on acquisition of the site access authorization (10 CFR Part 26, "Fitness for Duty Programs").

7. Security Requirements

If this section is applicable, seek advice from the Office of Nuclear Security and Incident Response on the proper documentation and clauses for preparation and handling of documents containing safeguards or classified information.

8. Meetings and Travel

This section specifies both domestic and foreign travel and/or meetings necessary for the performance of the work. Specify the purpose of each meeting or trip, the destination, the number of people necessary, and the estimated length of time. If specific dates for meetings or trips are known, they should be provided. State if a deliverable, such as a trip report, is required.

9. Deliverables and Milestones or Due Dates

(a) This section includes itemized deliverables with milestones or due dates. The COR will prepare a consolidated list of reports that specifies the following:

- (i) The title of the report,
- (ii) The required level of contractor management review,
- (iii) The frequency or due date of the report,
- (iv) A reference to the SOW section requiring the report,
- (v) The content requirements of the report (for example, "Monthly Letter Status Report Requirements"), and
- (vi) A distribution list with format requirements (e.g., digital and/or hardcopy).

(b) At a minimum, a final report and the monthly letter status reports are required. See Section II.F, "Developing the Statement of Work (SOW)," of this handbook for further guidance.

10. Level of Effort

(a) The decision to provide staffing levels should be based on the COR's ability to clearly define the requirement and the required level of quality for the project. If the DOE laboratory has performed the tasks previously, it may be prudent not to provide the COR's estimate in order to see the DOE laboratory's unbiased independent estimate based on its knowledge of the project. This would encourage innovative approaches to the tasks and is in keeping with the philosophy of performance-based contracting.

(b) If the project is less defined, in order to assist the DOE laboratory in preparation of its proposal and to facilitate NRC's later evaluation of the proposal, the level of effort stated in staff hours should be broken down by task(s). If a particular expertise is required for performance of the work, this may also be specified. For example, the COR may include the following statements:

- (i) The level of effort for Task 1 is 100 staff hours of a geologist's time.
- (ii) The level of effort for Task 2 is 125 staff hours each of both a geologist's and a seismologist's time.

11. Period of Performance

(a) This section sets out the period of performance which is the start date and end date of the project. It is NRC's policy that the DOE agreements do not normally exceed 5 years. If it is necessary to extend a project beyond the initial 5 years for programmatic reasons, the written rationale should be approved by the office director or designee.

(b) If the actual start date is unknown, then the start date should be listed as "the date of award of the agreement." The completion date would then be stated in relation to the award date (e.g., months or years after the award date).

12. NRC-Furnished Property

This section identifies specific reports, journals, documents, equipment, or other items that NRC will provide to the DOE laboratory. The COR will specify the date that the NRC will provide this property.

13. Organizational Conflict of Interest (OCOI)

(a) OCOI is described in detail in Section II.D of this handbook.

(b) The OCOI clause is in the standard terms and conditions document, which is located in the MD 11.7 Documents library.

(c) The OCOI clause requires the DOE laboratory to provide descriptions of its present, planned, or past work for other organizations.

- (i) The descriptions should include work that was performed by either the DOE laboratory or by the operator of the DOE laboratory.
- (ii) The descriptions should include work performed in the same technical area as well as work performed involving the same or similar matter as the NRC project scope of work. This includes but is not limited to NRC licensees,

vendors, industry groups, or research institutes that represent or are substantially composed of nuclear utilities.

- (iii) Usually, DOE laboratories are required to include their work from the last 5 years.
- (d) The name of the organization, an estimated dollar value, and the period of performance of the work identified should be provided.
- (e) The requirement to obtain information describing applicable work extends to any subcontractor the DOE laboratory intends to use.

H. Independent Government Cost Estimate (IGCE)

1. After the SOW tasks and deliverables are defined, the IGCE is prepared. The IGCE estimate is not based on the budget estimate but on the scope of work defined in the SOW. If the estimate exceeds the budget and no additional funding is available, the project should be restructured to stay within the budget. In no event should a project be awarded where the COR knows the project will exceed the available funding. The purpose of the IGCE is to compare it to the DOE laboratory's cost proposal during the evaluation process to ensure costs are appropriate.
2. An IGCE is required when project costs are estimated to be \$100,000 or more for new agreements, TOAs, or TOs. Additionally, an IGCE is prepared for each SOW modification which will increase or decrease the estimated project costs by \$100,000. An IGCE may be prepared for an agreement or TO with an estimated cost of less than \$100,000.
3. There are two basic methods used to analyze prices or costs. Price analysis is generally used for supplies, equipment, and simple services that are routinely available on the open market at competitive or catalog prices. Cost analysis requires a breakdown of project costs by element. These cost elements include direct costs (including labor, supplies, equipment, or transportation) and indirect costs (including labor overhead, material overhead and G&A expenses). Since DOE agreements are cost reimbursable agreements and not for commercially available equipment or services, the cost analysis method is used to evaluate DOE laboratory proposals. When developing the IGCE, the COR is required to document the following:

- (a) Source of Information

The COR must gather pertinent information for developing the IGCE. For example, the COR should use the DOE laboratory reported cost data in the MLSR as the basis for estimating future year direct and indirect rates for new projects. For follow-on projects, the COR should use the actual rates for the project as well as the number of hours used by fiscal year as the basis.

(b) Information Estimating Tools Used

There are two tools that the COR may find useful in developing the IGCE.

- (i) The first tool is the “IGCE-Cost Proposal Comparison,” spreadsheet which is a template for developing the IGCEs for each DOE laboratory based on its historical MLSR rates and compares the DOE laboratory cost proposal composite rates to the IGCE once the proposal is received. This spreadsheet is based on the “MLSR Lab Rates” spreadsheet which calculates the average direct and indirect rates, also called composite rates, for each DOE laboratory based on various projects’ MLSR data. Both spreadsheets are located in the MD 11.7 Documents library.
- (ii) The second tool is the Employment Cost Index developed by the Bureau of Labor Statistics (BLS) which is helpful in developing the escalation rates for future years. The 12-month Employment Cost Index for private industry may be accessed at <http://data.bls.gov/cgi-bin/surveymost>. The data may be downloaded to a spreadsheet.

(c) Assumptions

The COR must document the assumptions and method used to estimate the number of staff hours and direct and indirect rates by fiscal year. For example, if the COR used the BLS Employment Cost Index to develop escalation rates for the project direct labor over a 5-year period, then the COR must show how the data was used to derive the escalation rates. One approach to develop the escalation rates is to average the last 5-year indices and use the result to escalate the labor rates for each of the project years.

(d) Documentation Requirements

- (i) The COR may use the NRC Form 554A, “Independent Government Cost Estimate (IGCE),” or the “IGCE-Cost Proposal Comparison” spreadsheet to prepare the IGCE. Both documents are available in the MD 11.7 Documents library. The IGCE must be structured to identify costs by fiscal year to aid in the cost proposal evaluation. The date prepared and the name of the estimator should also be included. The IGCE must be prepared before release of the RFP.
- (ii) All IGCEs must be signed and dated by the COR. A brief narrative of how the costs were developed, the source material used, and assumptions made to develop the IGCE must be included in the file with the IGCE. Never release or discuss an IGCE with entities outside of NRC. NRC staff should discuss an IGCE on a need-to-know basis.

III. REQUEST FOR PROPOSAL PREPARATION AND ISSUANCE

A. Request for DOE Laboratory Proposal Content

1. The RFP documentation must always include the following:
 - (a) The letter or e-mail requesting the proposal is issued or signed by the office director or designee. The letter or e-mail shall state the proposal due date and the mailing address, including the name, address, e-mail address, and NRC mail stop of the person who will receive the proposal. The request should state that a signed original proposal (NRC Form 189) or a scanned PDF signed copy is required.
 - (b) The SOW is prepared in accordance with guidance provided in Sections II.F and II.G. The SOW is the basis for both the cost and technical proposal preparation.
 - (c) The standard terms and conditions are included in accordance with Section III.B of this handbook.
2. The RFP documentation for agreements and TOAs consists of the following:
 - (a) The letter or e-mail request,
 - (b) The SOW,
 - (c) The standard terms and conditions, and
 - (d) The proposal preparation instructions for the NRC Form 189.
3. The RFP documentation for TOs consists of the following:
 - (a) The letter or e-mail request,
 - (b) The SOW,
 - (c) The OCOI clause, and
 - (d) The proposal preparation instructions for the NRC Form 189.
4. The remaining standard terms and conditions were incorporated into the TOA at award and apply to all TOs issued under the authority of the TOA.

B. Standard Terms and Conditions

1. The standard terms and conditions applicable to the project must be attached to the RFP for all new agreements whether stand alone or TOAs. In addition, they must be attached as part of the award documentation as prescribed in Section V. All terms and conditions apply to any subcontractors, including consultants.

2. With the exception of the OCOI clause, the applicable standard terms and conditions will not be included in TO RFPs. The standard terms and conditions were made part of the TOA at award and apply to all TOs issued under the authority of the TOA.
3. The standard terms and conditions will not be provided with in-scope modifications to the agreements, TOAs, or its TOs. The standard terms and conditions were provided with the initial award and continue to apply to all modifications.
4. For new work which is outside the scope, the OCOI clause must be recertified by the DOE laboratory before performance. If applicable, the OCOI clause must be recertified by the subcontractors and/or consultants before performance.
5. The standard terms and conditions are available in the MD 11.7 Documents library.

C. Issuance of the Request for Proposal

1. Once the SSJ is approved, then the RFP is issued by the office director or designee.
2. If a project meets a certain threshold, then the following applies:
 - (a) Senior management must review and approve the project before award.
 - (a) The RFP shall not be issued until the appropriate senior management approval is obtained.
 - (b) The authorization from senior management must be included in the project file.
3. Information about the threshold can be found in the MD 11.7 Documents library.
4. The RFP is issued to the cognizant DOE site or field office with copies to the performing DOE laboratory in accordance with DOE Order 481.1C entitled "Work for Others (Non-Department Of Energy Funded Work)."

D. Receipt of Proposals

1. The DOE laboratory shall prepare a written technical and cost proposal and submit the proposal package to the DOE Site or Field Office for approval.
2. The DOE Site or Field Office shall forward the approved proposal to NRC within 30 calendar days of DOE laboratory receipt of the RFP. This time may be decreased or increased for an individual project as circumstances dictate and as determined necessary by NRC and DOE.
3. The DOE Site or Field Office must ensure that the proposal is prepared in accordance with the NRC Form 189 and its instructions.

IV. PROPOSAL EVALUATION AND DISCUSSION

A. Evaluation of DOE Laboratory Proposal

1. Upon receipt of the NRC Form 189 signed by an authorized DOE laboratory official, the COR performs a proposal evaluation and ensures that the results are documented in the project file. NRC Form 558 and the optional Form 558/555 are provided for use by offices and include a series of technical, cost, and OCOI questions designed to facilitate a thorough review. Both forms are available in the MD 11.7 Documents library.
2. The COR should first evaluate the technical proposal. The purpose of the evaluation is to determine if the proposed technical approach, level of effort, and the level of personnel expertise proposed is consistent with the project objectives.
3. After the technical evaluation is completed, the COR must compare the proposed costs in the NRC Form 189 with the IGCE for each cost element.
 - (a) To document the comparison, the COR should prepare a spreadsheet that shows the proposed cost for each element in the IGCE compared to the proposed cost for each element in the proposal.
 - (b) The analysis should include a comparison of the amount of hours, labor categories, and labor rates.
 - (c) Any differences must be noted and resolved during discussions. For example, given the technical approach proposed by the laboratory, perhaps the skill mix (levels of expertise and experience) and level of effort proposed is different from the COR's assumptions in preparing the IGCE. These differences and underlying assumptions should be analyzed. The element by element cost comparison must be done when accepting a proposal for a new agreement or a modification to an existing agreement. Any differences should be summarized on the NRC Form 558, in preparation for discussions.
 - (d) The "IGCE-Cost Proposal Comparison" spreadsheet, available in the MD 11.7 Documents library, provides templates for developing the IGCE and the cost comparisons for each laboratory based on the MLSR data.
4. Past performance of the DOE laboratory shall be considered before award. In addition to considering the office's experience with the DOE laboratory and changes in DOE laboratory contractor management, the COR should check any past performance data available. The results of this review should be documented in NRC Form 558.

B. Discussions

1. Based on the proposal evaluation, the COR should develop any specific technical and cost questions. The DOE laboratory must address these during the discussions. The DOE laboratory's response to the questions should convey the following:
 - (a) The degree of understanding the DOE laboratory has of the project scope;
 - (b) The reasonableness of the technical approach;
 - (c) Staffing requirements; and
 - (d) The overall project cost, given its technical approach.
2. The objective of discussions is to ensure that NRC and DOE laboratory personnel reach an agreement regarding, at a minimum, technical approach, proposed personnel skill mix, and technical and cost issues. Any concerns about the direct or indirect rates should be addressed to the cognizant DOE site or field office, since the rate development is the responsibility of DOE and is not negotiable.
3. After discussions, the DOE laboratory should submit a revised proposal clearly annotating the changes. The DOE site or field office or the DOE laboratory, if designated, shall forward the revised proposal to NRC within 30 calendar days of request. The COR shall evaluate any revised proposals in the same manner as the original proposal.

C. Summary of Discussions

The COR shall summarize the salient aspects of the discussions in a memorandum to the file or on NRC Form 555. The COR should document the resolution of all questions. In deciding the level of detail to be documented, the COR should provide enough information so that a new COR or independent reviewer would understand the issues and the rationale for decisions made.

V. WORK AUTHORIZATION AND INITIATION

A. Preparation of NRC Form 173, "Standard Order for DOE Work"

1. Following evaluation of the proposal and subsequent discussions, the initiation of work shall be authorized by issuance of an NRC Form 173, "Standard Order for DOE Work." Each NRC Form 173 will be assigned a unique project number. See guidance in MD 11.7 Documents library entitled "FY 2011 Award Numbers for DOE Lab Agreements & IAAs."

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2. Task Orders and modifications issued under this project would also be numbered sequentially. See guidance in the MD 11.7 Documents library entitled "FY 2011 Award Numbers for DOE Lab Agreements & IAAs."
 3. NRC Form 173 and the preparation instructions are available in the MD 11.7 Documents library.
 4. Before the office director or designee signs the NRC Form 173, the funds must be certified by the office's Funds Certification Official (FCO).
 5. Once the office director or designee has signed NRC Form 173, it is forwarded to the appropriate DOE site or field office manager with a copy to the DOE laboratory. A sample transmittal letter is provided in the MD 11.7 Documents library. DOE shall sign and forward the signed NRC Form 173 directly to the NRC Office of the Chief Financial Officer, Division of the Controller (OCFO/DOC), and provide a copy to the relevant office.

B. Award Documentation

The COR shall ensure that all award documentation is placed in ADAMS, in accordance with office procedures.

1. Stand-alone Agreements
 - (a) The award documentation for stand-alone agreements and TOAs consists of the following:
 - (i) The NRC Form 173 signed by all parties,
 - (ii) The SOW,
 - (iii) The standard terms and conditions with the executed OCOI certification, and
 - (iv) The signed DOE laboratory proposal (NRC Form 189), which is referenced on the NRC Form 173.
 - (b) CORs must attach the proposal to NRC Form 173.
2. Task Orders
 - (a) The award documentation for Task Orders consists of the following:
 - (i) The NRC Form 173 signed by all parties,
 - (ii) The SOW,
 - (iii) The executed OCOI certification, and
 - (iv) The signed DOE laboratory proposal.

(b) The remaining standard terms and conditions are attached to the TOA and apply to all TOs issued under the TOA.

3. Modifications Changing the SOW

(a) The award documentation for modifications changing the SOW consists of the following:

- (i) The NRC Form 173 signed by all parties,
- (ii) The revised SOW,
- (iii) The executed OCOI certification, and
- (iv) The signed DOE laboratory proposal which is referenced on the NRC Form 173.

(b) For administrative modifications only, the NRC Form 173 signed by both parties is required, since all other terms and conditions remain unchanged.

C. Work Initiation for Urgent Requirements

1. The cognizant NRC division director or designee approves whether work is required on an urgent basis. This approval attests that the mission of the office would be impeded if the work does not begin immediately. NRC will transmit a signed NRC Form 173 to the cognizant DOE site or field office with a copy to the DOE laboratory. At a minimum, the NRC Form 173 will contain the following:

- (a) The SOW,
- (b) An estimate of the level of effort required,
- (c) A statement that the work is urgently required, and
- (d) Incremental funding estimated to provide adequate funds for work performance while the proposal is prepared and evaluated.

2. Upon receipt of an NRC Form 173 specifying urgency, the DOE site or field office will concur in the placement of work by signing the NRC Form 173.

3. Since total project costs will be determined after work begins, the estimated amount may not be accurately known. If the amount is anticipated to exceed the budgeted amount, funds should be provided or appropriately transferred to cover the necessary costs in advance of work initiation. If the estimated amount proposed by DOE exceeds the anticipated amount and available funding, NRC will either restructure the SOW or partially or totally terminate the work. There are no assurances to DOE or its DOE laboratory beyond those measures.

4. As soon as practicable after work initiation, the COR shall generate the required SSJ and the IGCE and obtain any authorizations and approvals as required for initiation of a project or TO in accordance with MD 11.7. The DOE laboratory shall submit an NRC Form 189. Proposal preparation should not hamper commencement of the urgent work. The COR shall evaluate the proposal in accordance with Section IV of this handbook.

VI. NRC/DOE LABORATORY PROJECT ADMINISTRATION

A. NRC-Furnished Property

1. If NRC is required to furnish property which includes documents and/or materials or equipment, then the COR should ensure that these are provided to the DOE laboratory in accordance with the SOW milestone schedule.
2. Failure to provide these items in a timely manner may impact the DOE laboratory's ability to proceed with the work.
3. If this happens, the COR should contact the DOE laboratory and discuss any necessary schedule changes and modify the period of performance accordingly.

B. Technical Direction Guidelines

1. Technical direction given to the DOE laboratory by the COR must be consistent with the NRC SOW and the DOE laboratory proposal.
 - (a) Technical direction must be documented in writing and forwarded to the DOE laboratory and a copy must be placed in the official NRC project file.
 - (b) If technical direction will be provided by anyone other than the COR, then the individual's authority must be stated in the DOE agreement.
2. Technical direction may include the following:
 - (a) Approval of approaches, solutions, designs, or refinements;
 - (b) Interpretation of specifications; or
 - (c) Shifting of emphasis among work areas or tasks.
3. Technical direction does not constitute new assignments of work. Therefore, technical direction will not change the estimated project cost or the scope or specifications contained in the current SOW.

C. Project Monitoring Overview

1. Once the NRC office director or designee and the DOE contracting officer have signed the NRC Form 173, project work can be initiated and funds can be expended.
 - (a) Project monitoring is designed to ensure that a project is performed in accordance with the requirements of the SOW and the technical approach stated on the NRC Form 189 accepted by the COR.
 - (b) Project monitoring shall ensure that work remains on schedule and within the agreed-upon cost provided in the NRC Form 173. To carry out this function, the NRC COR monitors the work as it proceeds and conducts reviews of the contractor's actions in compliance with project requirements.
2. The following ensure effective project monitoring results:
 - (a) Reviewing the MLSR. See Section VI.D of this handbook.
 - (b) Communicating frequently with DOE laboratory project personnel.
 - (c) Conducting meetings with DOE laboratory technical staff on project progress in order to be active in providing technical oversight.
 - (d) Documenting substantive conversations with the DOE laboratory.
 - (e) Documenting actions taken to keep the project on schedule, within cost limitations, and in conformance with the SOW.
 - (f) Prompt invoicing and financial reconciliation.

D. Review and Analysis of the Monthly Letter Status Report (MLSR)

1. For NRC/DOE laboratory projects, the primary tool for monitoring is the MLSR. The MLSR should provide adequate information for the COR to fully understand the technical progress of the project and identify any potential problems that may impede progress or lead to undesirable results.
2. The MLSR should also provide detailed cost information for the project in accordance with MLSR requirements available in the MD 11.7 Documents library.
 - (a) This information is needed by the NRC CORs to ensure that the project progress is commensurate with the cost incurred.
 - (b) Laboratories do not need to amend existing accounting systems in order to provide this information.

3. To analyze an MLSR, the COR should review the following:
 - (a) Labor hours and the following elements of cost:
 - (i) Direct costs, including the direct labor;
 - (ii) Travel;
 - (iii) Equipment;
 - (iv) Subcontracting costs;
 - (v) Materials;
 - (vi) Services; and
 - (vii) Indirect costs.
 - (b) Technical performance.
 - (c) Staffing levels by category.
 - (i) Determine the composite rate that the DOE laboratory is charging the project.
 - (ii) If there is a significant difference between the rate proposed and the rate currently charged, then the COR should determine if the difference represents a cost or technical risk to the project.
 - (iii) For guidance on developing composite rates consult "Developing Composite Rates" in the MD 11.7 Documents library.
 - (d) Changes in DOE laboratory project personnel.
 - (e) Project milestones or due dates.
 - (f) Acceptance of deliverables.
 - (g) SOW problems.
 - (h) Any reportable items identified in the agreement.
4. The COR should also take the following steps to address concerns:
 - (a) Discuss all inconsistencies and problems with the DOE laboratory.
 - (b) Determine the impact of problems, including increased costs, revised milestones or due dates, or failures in attaining technical objectives.
 - (c) Determine if the impact of problems is acceptable to NRC.

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- (d) Take appropriate action to ensure that delays on projects are minimized. When the DOE laboratory indicates either verbally or by a written notification, such as in the MLSR, that the project is experiencing a delay, the COR shall take prompt action to resolve all issues or, if appropriate, take action to terminate the project if the DOE laboratory has not made necessary efforts to resolve the issue(s) causing the delay.
 - (e) Determine if the impact of problems and/or any proposed solutions will require the agreement to be modified.
 - (f) Document the nature and resolution of issues and problems in the office project file.
 - (g) Document the results of the review on NRC Form 552, "MLSR Review (MLSRR)."
 - (i) Performing the review described above will enable the COR to respond to questions posed on the MLSRR.
 - (ii) Problems encountered with DOE laboratory performance on costs reported and subsequent resolution shall be documented and placed in the file.
 - (h) Review the MLSR costs incurred against the laboratory spending plan to determine if the rate of spending is on target or is deviating from expected costs. Ensure that funding provided is sufficient to cover the DOE laboratory's planned expenditures or that incremental funding is provided as required. In no event should the DOE laboratory perform work beyond the amount obligated.

E. Modifications to Projects

1. Modifications range from administrative in nature, such as incremental funding actions and no cost extensions of projects, to more complex technical changes or actions, such as amending the SOW to add additional work. CORs are reminded that the project period of performance should not normally exceed 5 years. Modifications involving the simpler administrative actions may be accomplished without requesting a proposal when project cost is not affected. NRC Form 173, signed by NRC and DOE, effects the change. Some modifications, including requests for change in key personnel, may require a technical proposal even though costs are not affected.
2. Modifications that affect project costs require a DOE laboratory proposal. For example, if an additional task is added to the SOW or the SOW scope changes, the DOE laboratory must prepare a proposal for NRC approval. The COR shall evaluate the proposal and hold discussions if necessary. Once the modification is agreed to by both parties, the NRC Form 173 is prepared, funds certified, and the office director or designee signs the NRC Form 173. In no event will the COR authorize the commencement of work without the office director or designee approval.

3. The COR is not authorized to omit, skip, or delete a task and/or deliverable without modifying the agreement. Only the office director or designee may modify the agreement to decrease the scope of the project.
4. For urgent modifications, see the process described at Section V.C of this handbook.

F. Performance Evaluations

1. An evaluation of DOE laboratory performance shall be prepared for all active projects. An optional evaluation form titled the "DOE Annual Performance Report" is available in the MD 11.7 Documents library for the COR to use.
2. Performance evaluations normally must be prepared by the COR annually for multiple-year projects and at project completion.
3. These evaluations shall be provided to the DOE site or field office for its review and comment.
4. The project file shall reflect when the evaluation was provided to the DOE site or field office and any DOE site or field office response to the evaluation must be included in the project file.

G. Interagency Billing Review Process

1. DOE site or field office shall ensure that MLSRs are sent to the COR in a timely manner to enable the COR to compare MLSR costs against the amount on the NRC "Approval Forms for Interagency Billings" (a sample is available in the MD 11.7 Documents library). MLSRs are due on the 20th of the month following the month being reported. NRC may charge back billed costs to DOE if MLSRs are not received in time for the COR to perform a timely review of the interagency bill.
2. DOE site or field office shall ensure that a consolidated bill is prepared each month for each agreement including all TOs.
 - (a) In most instances, the amount billed should closely approximate or equal the cost reported in the MLSR.
 - (b) In practice, the MLSR financial report constitutes the bill received from DOE. Therefore, a copy of the MLSR financial report shall be submitted with the Intergovernmental Payment and Collection System (IPAC). If the MLSR costs differ from the amount billed, then DOE shall provide an explanation of the difference.

3. CORs shall compare the monthly interagency bill amount with the costs reported in the MLSR. In reviewing the interagency bill, the COR determines the following:
 - (a) Whether the charges are within the scope of the SOW,
 - (b) Whether the charges accurately reflect the work performed, and
 - (c) Whether the charges are supported by deliverables, status reports, or other applicable documents that have been received.
4. The COR reviews the reported costs to determine the following:
 - (a) Whether the reported costs, including their individual elements, are considered reasonable for the technical progress made; and
 - (b) Whether the interagency bill costs match, closely approximate, or are less than the MLSR costs.
5. If both of the conditions articulated in Section VI.G.4 above have been met, then the COR shall approve the reported costs by checking the approval block on the NRC "Approval Forms for Interagency Billings."
 - (a) The COR shall annotate and certify the form in accordance with NRC procedures.
 - (b) The COR will then sign the form and return it to the OCFO.
 - (c) The form must be returned to the OCFO within 20 calendar days from the date on the OCFO's transmittal memorandum (the memorandum from OCFO which transmitted the interagency bill and backup material to the COR).
6. Amounts billed that are lower than the MLSR may either be a partial billing or reflect a credit.
 - (a) In the case of a partial billing, the COR shall check to see that the difference is billed on the next month's interagency bill.
 - (b) Further, the COR shall ensure that the amount(s) credited is (are) accurate.
 - (c) Amounts billed that are different from the MLSR and are due to mathematical errors shall be brought to the attention of the DOE laboratory immediately.
 - (d) The DOE laboratory shall correct all mathematical errors in the following MLSR and DOE, or if authorized the DOE laboratory, shall either credit or bill the difference in the next monthly bill. The COR shall annotate the approval form and ensure that DOE follows through with this procedure.

7. The interagency bill should be filed accompanied by a Voucher/Expenditure Log or other record in which the COR may keep a running tally of obligations and expenditures to ensure that the total amount approved for payment to DOE does not exceed the obligated amount for a project. Each TO requires a separate Voucher/Expenditure Log or other record. A sample of a Voucher/Expenditure Log is provided in the MD 11.7 Documents library.
8. The COR shall not approve costs:
 - (a) Involving a discrepancy, other than mathematical, found between the interagency bill and the work performed and costs reported in the corresponding period's MLSR.
 - (b) When the reasonableness of costs cannot be confirmed by additional documentation provided by DOE with the interagency bill.
 - (c) When costs and work reported for the payment period do not appear to be within the parameters of the SOW.
9. If possible, the COR must resolve any discrepancies by contacting the DOE laboratory and obtaining additional documentation that clarifies or supports the billed costs.
 - (a) When more time is needed to resolve the billing discrepancies, the COR shall request a time extension from the OCFO in accordance with office procedures.
 - (b) The COR shall annotate the project file stating the reason for the delay.
10. When the COR cannot resolve the differences between the billed amount and the MLSR within a reasonable amount of time, the COR will be responsible for the following:
 - (a) Indicate the disapproved amount,
 - (b) Check one of the disapproval blocks,
 - (c) Provide an explanation to support the disapproval,
 - (d) Provide the DOE laboratory contact name and telephone number,
 - (e) Sign the form,
 - (f) Return the form to the OCFO in accordance with office procedures,
 - (g) Inform the DOE laboratory that a chargeback will be processed by NRC to recoup the disputed payment, and
 - (h) Annotate the project file to show that this step has been completed.

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11. Upon receipt of an Approval Form for Interagency Billings on which the COR has disapproved all or part of the amounts billed, the OCFO will contact the DOE site or DOE field office or DOE laboratory involved to resolve the difference.
 - (a) If the difference can be fully or partially resolved, the OCFO will provide the information in writing to the COR and request written approval of the billed costs.
 - (b) If the disputed costs cannot be resolved in part or in total, then the OCFO will do the following:
 - (i) Charge back the disputed amount to the appropriate DOE site or field office or DOE laboratory,
 - (ii) Provide a copy of the chargeback to the COR, and
 - (iii) Enter the credit into the NRC financial accounting system.
 - (c) The site or field office or DOE laboratory shall notify the DOE laboratory when the chargeback is received.
 - (d) The DOE laboratory shall include the chargeback amount in the next MLSR.
 - (e) Upon receipt of an NRC "Approval Form for Interagency Billings" with a chargeback amount listed, the COR shall verify that the amount is properly credited in the MLSR and document the file.
 12. The DOE laboratory principal investigator shall reflect any chargeback (including disputed costs) in the MLSR. Before rebilling any disputed costs, the DOE laboratory shall provide written justification to the COR.

H. Foreign Travel

1. Foreign travel for the DOE laboratory personnel requires a 60-day lead time for NRC approval.
2. For prior approval of foreign travel, the DOE laboratory shall submit an NRC Form 445, "Request for Approval of Official Foreign Travel." NRC Form 445 is available in the MD 11.7 Documents library and on the NRC Web site at: <http://www.nrc.gov/reading-rm/doc-collections/forms/>.
3. Foreign travel is approved by the EDO.

I. Post-Award Approval to Purchase Additional NRC-Funded Software or Property

After award of the agreement, laboratories may wish to develop additional NRC-funded software or purchase additional property with an estimated acquisition cost of \$500 or more.

1. Laboratories shall submit a written request to the COR for approval.
2. The COR shall approve or disapprove the acquisition or development of any additional items in writing.

J. Funds Management

1. Only an office director or designee is authorized to obligate the agency in accordance with the Delegations of Authority by the Senior Procurement Executive. The COR is not so authorized.
2. NRC offices cannot authorize funds to be transferred between job codes after the end of the fiscal year. If transfers between job codes are deemed necessary after the end of the fiscal year, the OCFO Budget Director's review and approval is required before any transfer.
3. For additional information, see NRC MD 4.1, "Accounting Policy and Practices," and MD 4.2, "Administrative Control of Funds."

K. Reporting Suspected Wrongdoings to the Office of the Inspector General (OIG)

1. NRC policy for reporting suspected wrongdoings is set forth in MD 7.4, "Reporting Suspected Wrongdoing and Processing OIG Referrals," which states:

Employees are required to report to OIG all suspected violation of law, rules, or regulations; mismanagement or substantial and specific danger to health and safety; incidences of fraud, waste, and abuse; diversion of NRC assets by NRC employees or contractors; and other wrongdoing in accordance with the Inspector General Act. Contractors and other individuals employed in NRC programs and/or present in NRC spaces are encouraged to report these matters.

2. In the event that an employee or contractor suspects wrongdoings, he or she should consult MD 7.4 and follow the procedures outlined therein.

VII. WORK TERMINATION AND CLOSEOUT

A. Remedies for Failure to Make Satisfactory Progress on Project

1. Circumstances may arise that adversely affect the DOE laboratory's progress on a project. For example, technological advances or external events may diminish the value of a project's goals. Perhaps data gathered through a project indicates that continuing pursuit of the SOW objectives is not worth the agency's investment, or the DOE laboratory's efforts on a task have not produced the desired result, or perhaps the DOE laboratory staff dedicated to the project is not making satisfactory progress.
2. When instances of this nature occur, the NRC office shall take decisive action to either satisfactorily resolve the problem(s) or terminate the project in part or in its entirety. The office is encouraged to consult with ADM/DC, OGC, and the DOE site or field office, as well as the DOE laboratory, as appropriate, to assess the estimated impact of stopping or terminating the work. A stop-work order or termination of an agreement requires a written authorization from the NRC office director or designee.

B. Use of a Stop-Work Order

1. During the course of a project or individual TO, it may become necessary to stop the technical work in order to resolve a problem or limit further expenditure of NRC funds and resources. Reasons for stop-work orders include, but are not limited to, the following:
 - (a) A change in technical needs or focus on the part of NRC or
 - (b) The lack of progress by the DOE laboratory.
2. A stop-work order may be in effect up to 90 days. The period of the stop-work order may be extended when this is justified. However, stop-work orders for periods in excess of 90 days must be coordinated with the DOE site or field office.
3. The NRC office director or designee determines whether there is a need to issue a stop-work order.
4. A stop-work order is issued using NRC Form 173.

C. Cancellation of a Stop-Work Order

1. When the issues are resolved and the project is to be continued, the office director or designee shall cancel the stop-work order by issuing an NRC Form 173 to the DOE site or field office and sending a copy to the DOE laboratory.
 - (a) The NRC Form 173 shall document any agreements made with the DOE laboratory during the course of the stop-work order.

- (b) In the case of a necessary scope change, the COR will be responsible for the following:
 - (i) Making the detailed changes to the SOW,
 - (ii) Estimating the changes for the associated level of effort, and
 - (iii) Preparing an RFP for the proposed changes.
- 2. If the stop-work order was issued for a reason that does not affect the SOW, then the NRC Form 173 that was used to reinstate the work will instruct the DOE laboratory to submit a cost impact statement.

D. Termination of the Agreement

1. If the NRC office director or designee decides to terminate a portion or the entire work order, then the provisions of the "Termination" clause must be followed. The termination clause is contained in standard terms and conditions document, which is available in the MD 11.7 Documents library.
2. The cognizant office director or designee shall send an NRC Form 173 terminating the project to the appropriate DOE site or field office for review and execution. If a dispute arises between the parties concerning the termination action, then the cognizant office director or designee shall resolve the matter.
3. After both NRC and DOE agree to terminate the agreement, the COR shall request that the DOE laboratory, through the cognizant DOE site or field office, submit a termination settlement proposal. The COR shall ensure that costs are evaluated in order to determine if they are allowable up to the effective date of termination.
4. The COR shall coordinate the termination agreement with DOE. Costs should be agreed to within 30 days of the date of receipt of the termination settlement proposal.
5. After final costs are agreed to and reflected in a revised NRC Form 173 for a termination of the entire project, the COR shall begin the closeout process discussed below and shall send a copy of the NRC Form 173 to OCFO/DOC.

E. Closing Out the Project

1. The COR shall ensure that interim and final reports are placed into ADAMS, in accordance with office procedures.
2. The COR shall begin action to close out the project upon expiration or termination of the project. The closeout process begins with evaluating the DOE laboratory's performance using the NRC Form 559, "NRC/DOE Project Closeout." For guidance, see Section VII.F of this handbook.

3. CORs should promptly identify completed DOE projects with unexpended obligations.
 - (a) CORs shall deobligate unexpended funds by issuing a signed NRC Form 173 to the appropriate DOE site or field office for acceptance.
 - (b) Upon signature by the appropriate DOE official, the NRC Form 173 represents a deobligation of funds and is recorded in the NRC accounting system.
 - (c) This deobligation process will generally be completed within 90 days of the expiration of the agreement or completion of the work.
4. Whenever no billing has occurred for 6 months or more, projects should be examined for the potential for closeout and deobligation of excess funds. Closeout procedures should be begun for projects with no billing for 12 months unless a compelling reason exists to keep the project active.
5. DOE projects requiring a final audit of a commercial subcontractor should not be closed out until the final audit is completed. Within 90 days of project completion, DOE shall notify NRC of the amount considered necessary for retention on the project pending final subcontractor audit. NRC shall promptly deobligate any unused funds over this amount.
6. Following final audit completion, DOE shall notify NRC of any remaining funds that may be deobligated.
 - (a) NRC shall deobligate the remaining funds and complete closeout of the project.
 - (b) Conversely, if additional funds are needed after final audit completion, DOE shall notify NRC in writing of the additional amount required.
7. The COR shall conduct an intra-office utilization screening review to determine if the property utilized by the project can be used on another office project. (See Section VIII.A of this handbook, "Procedures for Managing Property Acquired Through NRC/DOE Projects.")
8. The COR shall reconcile project funds.
9. Closeout should be completed within 12 months of the project's expiration except in cases in which a subcontractor audit is required.
 - (a) The COR shall prepare an NRC Form 173 stating that the DOE agreement is complete and closed. Any additional funds required must be certified by the Funds Certification Official and the 173 must be signed by the office director or designee.

(b) The DOE signed acceptance copy must be in the file.

(c) The COR shall complete the NRC Form 559, "NRC/DOE Project Closeout," and in accordance with office procedures, include a copy of this document in ADAMS.

F. Final Performance Evaluation Guidance

1. A final evaluation shall be prepared for all expiring projects within 30 days after receipt of the final invoice. This information will be used by other CORs before award of new agreements.
2. Careful evaluation of a DOE laboratory's performance after completion of the project is very important, as it serves as a valuable guide in determining the DOE laboratory's suitability for future work.
3. The COR should note any change in DOE laboratory contractor management and the effect on performance. This information provides useful recommendations to those staff members who are considering the DOE laboratory for further work.
4. The evaluation should be provided to the DOE site office for its comments.
5. Any comments received from the DOE and/or the DOE laboratory should be included in the file.

VIII. PROCEDURES FOR MANAGING PROPERTY ACQUIRED THROUGH NRC/DOE PROJECTS

A. Property Management Procedures

1. Procedures for DOE Laboratory-Acquired Property

The DOE laboratory is responsible for ensuring that property, excluding software, reported in the MLSR that is sensitive or has an acquisition cost of \$5,000 or more is consistent with DOE official property records. The COR shall ensure that the property or NRC-funded software listed in the MLSR had been previously approved by the NRC for the project. When this is not the case, the COR shall ensure that the unauthorized purchase is charged back to DOE. If no property was acquired or NRC-funded software development completed during the reporting month, then the DOE laboratory shall include a statement to that effect in the MLSR.

2. Property and software reported in the MLSR that has an acquisition cost of \$50,000 or more and that has a useful life of 5 or more years needs to be reported to the Office of the Chief Financial Officer, Division of the Controller for proper accounting treatment as prescribed by Statements of Federal Accounting Standards 6 and 10.

3. Final Reporting and Disposition of Property

- (a) In the final MLSR for the project, the DOE laboratory shall provide a closeout property report to the COR. The closeout property report will certify that sensitive property and property, excluding software, acquired by the DOE laboratory through the NRC project with an acquisition cost of \$5,000 or more is included in the DOE official property records and that the list is complete.
- (b) Sensitive property consists of items, regardless of value, that are considered susceptible to being appropriated for personal use or that can be readily converted to cash. Sensitive property could include but not be limited to personal computers, printers, and cameras. For each item listed, the report shall contain the same elements as described above for MLSRs. The closeout property report shall also identify any ongoing or contemplated NRC projects on which the property could be used. If no property was acquired through a project, then the DOE will provide a negative report. All DOE laboratory-acquired property requiring special handling for security, health, safety, or other reasons shall be noted as part of the report.
- (c) Upon receipt of the DOE-certified closeout property report for each project, the COR shall circulate the report within the office to determine whether or not the office needs the property. The office review should be completed within 2 weeks of receipt of the DOE report.
- (d) Upon receipt of the results of the office's review, ADM/DC may request other offices to review the report to determine if the property can be used. The Disposition of DOE Laboratory-Acquired Property (Optional) template, available in the MD 11.7 Documents library, may be used.
- (e) Upon receipt of the results of the office's review, ADM/DC may request other offices to review the report to determine if the property can be used. The agency review shall be completed within 30 days.
- (f) Within 2 weeks after receiving the results of the review of the other offices, ADM/DC shall notify the initiating office of the review results.
 - (i) Other office(s) desiring to use identified property for other projects shall submit a completed NRC Form 493, "Property Transfer Request," to ADM/DC and the initiating office.
 - (ii) The initiating office shall issue an NRC Form 173 to DOE identifying any property needed internally or for another project and relinquishing NRC rights for first use to the balance of the property.

(iii) After the NRC Form 173 is issued to DOE, it is the responsibility of the office assuming ownership of the property to take action associated with affecting the property transfer, including the provision of any funds that may be needed to complete the transfer.

(iv) If DOE does not receive an NRC Form 173 identifying property transfer within 8 weeks of submittal of the DOE-certified closeout property report to NRC, then DOE should notify the COR and ADM/DC.

4. Property No Longer Required

The DOE laboratories and COR shall monitor sensitive property and property, excluding software, acquired through a project with an acquisition cost of \$5,000 or more on a regular basis. When property is no longer required for a project, it must be identified as no longer required in the next MLSR.

5. Utilization Review and Transfer for Ongoing Projects

NRC offices shall follow the above procedures for utilization reviews and transfer of the property conducted at project closeout.

6. ADM/DC Property Tracking

ADM/DC maintains a database of information compiled from annual reports submitted by the laboratories reflecting the inventory of DOE property valued at \$5,000 or more as provided. ADM/DC also coordinates data regarding NRC-funded software with OIS to ensure that accurate and complete inventory information is provided to the OCFO for capitalization purposes.

B. DOE Annual Property Report

By November 15 of each year, DOE shall prepare a comprehensive annual property report as follows and submit the entire report to ADM/DC.

1. Section 1: Property (Excluding NRC-Funded Software With a Useful Life of 2 or More Years) Acquired in the Reporting Year.

(a) This section shall contain the following:

(i) Sensitive property with a useful life of 2 or more years and

(ii) Property that had an acquisition cost of \$5,000 or more that had been acquired in the reporting year.

- (b) The following information will be included in Section 1:
 - (i) Property acquired and
 - (ii) Any property disposed of during the project.
 - (c) For each NRC office, DOE laboratory, and job code, the report shall provide the following information:
 - (i) Item description or name.
 - (ii) Manufacturer.
 - (iii) Model number.
 - (iv) Serial number.
 - (v) Acquisition cost.
 - (vi) Receipt date.
 - (vii) DOE or DOE laboratory property identification number, as appropriate.
2. Section 2: NRC-Funded Software
- (a) This section shall contain the following:
 - (i) NRC-funded software with a useful life of 2 or more years and
 - (ii) A development cost of \$5,000 or more for which development was completed in the reporting year.
 - (b) All analytical codes will be considered NRC-funded software regardless of where the code will run.
 - (c) It should be noted that NRC-funded software is not recognized as property and is not tracked in the official DOE property records.
 - (d) Section 2 shall include only DOE laboratory costs and exclude NRC staff-developed software and NRC employee costs.
 - (e) At a minimum, the NRC-funded software report section shall include the following information for each developed software item:
 - (i) Software name and function.
 - (ii) Development cost.
 - (iii) Computer language used.
 - (iv) System on which it will operate.

- (v) Physical location of the software and/or the hardware system.
- (vi) Date development of the software was completed.
- (vii) Date of scheduled replacement or projected useful life. (If none can be determined, use a date 5 years from the date the software became operational.)
- (viii) Name and telephone number of the COR for the system.
- (ix) Job code for which the software was developed.
- (x) DOE laboratory's name.

IX. DOCUMENTATION AND FILING

A. Official Office Project File

1. The COR is responsible for establishing and maintaining the official agency record for a project. Therefore, it is important that the project file records are complete, accurate, and auditable. The official agency record includes all required documentation generated in the planning, execution, administration, and closeout of the project. This includes documentation that is both technical and administrative in nature.
2. Administrative documents and records pertinent to work performed through NRC/DOE projects shall be filed in accordance with the provisions in Section IX.B of this handbook.

B. Specific Office Project File Content

The applicable documents listed below shall be filed in chronological order. Certain documents such as the MLSR or the Interagency Billing Approval Form should be filed together under a separate tab or folder. Agreement files (includes stand-alone agreements as well as TOAs and its TOs) must contain the following documentation:

1. Project descriptive summaries.
2. Program reviews.
3. User request and endorsement memoranda.
4. Fiscal year advanced procurement plan.
5. Statement(s) of work (SOWs).
6. Sources-sought announcement and evaluation of sources-sought responses, and/or other market research documentation.

7. Approvals, including but not limited to—
 - (a) Urgency.
 - (b) “Source Selection Justification” (NRC Form 367).
 - (c) Appropriate senior management reviews.
8. Organizational conflict of interest (OCOI) waivers.
9. Waiver of commission policy requests.
10. Information technology.
11. Security requirements (NRC Form 187, “Contract Security and/or Classification Requirements”).
12. “Independent Government Cost Estimate (IGCE) for DOE Laboratory Agreements” (NRC Form 554A) or DOE lab IGCE development spreadsheet.
13. Requests for proposal letter to DOE.
14. DOE site or field office transmittal letter approving the NRC Form 189.
15. DOE laboratory proposals (NRC Form 189, “DOE Laboratory Project and Cost Proposal for NRC Work”).
16. Summary of negotiations and summary of proposal evaluation (NRC Form 555, NRC Form 558, or similar format).
17. COR’s negotiation/discussion notes.
18. Record of past performance check (should be included in NRC Form 558).
19. Work order agreement(s) (NRC Form 173, “Standard Order for DOE Work”).
20. Attachments to the NRC Form 173.
21. Memoranda that document meetings, telephone conversations, technical direction and guidance, changes to work scope, schedule, cost estimates, trip reports, and meeting agenda.
22. Correspondence, including memoranda, letters, e-mails (interagency or interoffice).
23. Monthly letter status reports (MLSRs).
24. MLSR review (MLSRR) forms (NRC Form 552 or similar format).

25. "Approval Forms for Interagency Billings" signed by the COR.
26. Voucher/Expenditure log or similar format.
27. DOE Laboratory 75 percent of funding expenditure notice to NRC.
28. Annual performance assessments for multiple-year projects.
29. Final performance assessment.
30. Project file closeout (NRC Form 559, "NRC/DOE Project Closeout").
31. Publication releases (NRC Form 426, "Authorization to Publish a Manuscript in the NUREG Series").
32. Document the ADAMS Accession Number for interim and draft report.
33. Document the ADAMS Accession Number for final deliverables.
34. All modifications and supporting documentation cited above for the project.

C. Office Project File Disposition

1. The official NRC file for each DOE laboratory project shall be maintained for the active period of the job code. Upon completion of the closeout process, the file shall be forwarded to the NRC Records Officer for disposition in accordance with the following documents:
 - (a) Current versions of the U.S. General Records Schedule; NUREG-0910, "NRC Comprehensive Records Disposition Schedule," Rev. 4; and
 - (b) MD 3.53, "NRC Records and Document Management Program."
2. Official documents to be placed in ADAMS include the following:
 - (a) All SOWs,
 - (b) Signed NRC Form 173s pertaining to the project, and
 - (c) The final NUREG documents.

EXHIBITS

Exhibit 1 Definitions

Acquisition

Acquisition includes purchasing, renting, leasing, or otherwise obtaining supplies and/or services for Government use.

Allocable

To be allocable a cost must be either a direct cost, which is specifically incurred for performance of the work, or an indirect cost that benefits several aspects of the operation or is necessary for the overall conduct of the business even though it cannot be shown to benefit any specific elements of the business.

Allowable

To be an allowable cost under the agreement, the cost must be reasonable, allocable, properly accounted for, and not limited or excluded by the terms of the agreement.

Budget and Reporting (B&R) Classifications

NRC's budget and reporting (B&R) classification structure provides a framework for controlling funds in a manner consistent with the structure in the NRC budget. In addition, the B&R structure defines responsibilities of allowance holders for funding obligations for particular purposes.

Budget Object Classification (BOC) Code

The BOC code classifies obligations according to the nature of the services or articles procured. Obligations are classified by the initial purpose for which they are incurred. This is a requirement of Office of Management and Budget Circular No. A-11.

Certification of Funds Availability

The formal acknowledgment by the funds certifying official (FCO) that sufficient funds are available in the current allowance for entering into obligations. This acknowledgment is evidenced by the signature of the FCO on an appropriate commitment document before execution of an obligation. The certification of funds is the act of committing funds.

Chief Information Officer (CIO)

The CIO is the senior NRC individual reporting to the Executive Director for Operations (EDO) who is responsible for the agency's information technology resources program.

Closeout

Closeout is a process used after expiration or termination of an agreement to ensure that the DOE laboratory has satisfactorily performed the work, property utilization screening has been accomplished, project funds have been reconciled, overhead rate adjustments have been completed, and the funds remaining after the payment of all vouchers have been deobligated.

Contracting Officer's Representative (COR)

As used in this MD, the term COR is consistent with Government-wide use of this term. The COR is the NRC employee responsible for all aspects of a project, including technical, administrative, and fiduciary aspects.

Cost Overrun

A cost overrun occurs when expended costs for a project exceed the agreed to costs for the scope of work.

Deobligation

The cancellation or downward adjustment of a previously recorded obligation. Deobligation may be attributable to the cancellation of a project or contract, price revisions, or corrections of estimated amounts previously recorded as obligations. Use the NRC Form 173 to deobligate DOE laboratory agreements.

Documentation

Documentation includes any formal or informal notes, forms, letters, and memoranda that provide a record of the project, the deliverables required and received, and the funding obligated and paid.

DOE Facilities Operators

1. Facility operators manage, operate, and administer the DOE laboratories.
2. FAR 17.6 states that "management and operating contract" means an agreement under which the Government contracts for the operation, maintenance, or support, on its behalf, of a Government-owned or -controlled research, development, special

production, or testing establishment wholly or principally devoted to one or more major programs of the contracting Federal agency.

3. They may be a university or consortium of universities, other not-for-profit or nonprofit organizations, or for profit organizations under contract with DOE to manage on its behalf the laboratories. (See DOE laboratory definition.)

DOE Laboratory

There are currently 17 DOE laboratories nationwide, and all labs are managed and operated by non-Government entities under contract with DOE, known as DOE Facilities Operators.

Encumbered Costs

Encumbered costs consist of uncOSTed balances of purchase orders issued, contracts and subcontracts awarded, and other agreements for the acquisition of goods and services not yet received.

Foreign Funds

Foreign funds are that portion of costs reported in the monthly letter status report that represent contributions from foreign countries.

Funds Certification Official (FCO) A funds certification official (FCO) is designated by the Chief of the NRC Central Allowance Team, Division of Financial Services (DFS), Office of the Chief Financial Officer (OCFO). The FCO will certify funds availability on a Request for Procurement Action (RFPA) before obligation.

Government-Furnished Property (GFP)

GFP is property owned by or acquired on behalf of the Government that is furnished to a contractor for the performance of a contract or agreement.

Independent Government Cost Estimate (IGCE)

An IGCE is developed by the Contracting Officer's Representative (COR) to estimate the cost of work specified in a statement of work (SOW).

Information Technology (IT)

Any equipment, or interconnected system(s) or subsystem(s) of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency.

Inherently Governmental Function

1. As a matter of policy, an inherently governmental function is a function that is so intimately related to the public interest as to mandate performance by Government employees.
2. These functions include those activities that require either the exercise of discretion in applying Government authority or the making of value judgments in making decisions for the Government.
3. Governmental functions normally fall into two categories:
 - (a) The act of governing (for example, the discretionary exercise of Government authority) and
 - (b) Monetary transactions and entitlements.

Interagency Agreement

An interagency agreement (IAA) is an agreement between Federal agencies under which goods or services are provided in exchange for payment. DOE agreements are interagency agreements where DOE and its laboratories provide goods and services to NRC on a cost reimbursable basis. These agreements are referred to as DOE agreements in MD 11.7 and its handbook.

Job Code

The job code, formerly the financial identification number (FIN), is a financial code that defines a specific NRC project. All NRC commitment and obligation transactions require the designation of a job code. Job codes generally tie to a unique budget and reporting classification. Job codes consist of five characters.

Key Personnel

Key personnel are those individuals identified by the parties to perform work identified in the project SOW who are considered to be essential to the successful completion of the work.

Modification

A modification is any formal revision of the terms of a contract or agreement within or outside the scope of the contract or agreement.

Monthly Letter Status Report (MLSR)

An MLSR is a monthly report that must be submitted by the DOE laboratory through the DOE site or field office and that provides details regarding the DOE laboratory's technical progress, problems encountered or expected, and incurred cost information.

Negotiation

Negotiation consists of written or oral discussions before the award of a contract or agreement based on the technical/cost relationship that is most advantageous to NRC.

North American Industry Classification System (NAICS)

North American Industry Classification System is used by business and Government to classify business establishments according to type of economic activity.

Obligation

1. An obligation consists of an action that creates a liability or definite promise on the part of the Government to make a payment at some later time.
2. The initial recognition of an obligation occurs when the work order is placed or the contract is executed, even though the actual payment may not take place until the following fiscal year.
3. Obligations must be supported by appropriate documentation, including binding agreements.
4. In the case of standard orders for DOE work, the obligation occurs when an NRC Form 173 is signed by both NRC and the DOE.

Office Associate Competition Advocate (OACA)

An Office Associate Competition Advocate is an individual, appointed by the office director or designee. The OACA reviews source selection justifications to place work with the DOE laboratories and, when appropriate, acts as an office advocate for seeking alternative sources to DOE laboratories.

Organizational Conflict of Interest (OCOI)

An OCOI exists when the results of a project could be biased or an economic advantage could accrue by having a DOE laboratory perform work both for NRC and industry or DOE in the same or similar technical areas.

Pass-Through Subcontracting Prohibition

1. "Pass-through" subcontracting is prohibited.
2. It occurs when the roles of the prime contractor who should be performing the majority of the required work and a subcontractor become reversed. The subcontractor ends up doing most of the work or performs the majority of the effort. The DOE laboratory acts as an overseer and as a mere conduit for subcontract administration and does not contribute significantly to the technical results.

Payment

A payment consists of an amount disbursed monthly to DOE through the U.S. Treasury Intergovernmental Payment and Collection System (IPAC).

Principal Investigator

The principal investigator is a technical DOE laboratory employee charged with the responsibility of ensuring that the project is satisfactorily performed.

Procurement

Procurement includes purchasing, renting, leasing, or otherwise obtaining supplies and/or services for Government use.

Project

A project is a definable, programmatic effort or a specific acquisition of goods and/or technical services, which is assigned a unique job code and satisfies the attainment of either a single or homogeneous group of objectives.

Project Administration

Project administration involves the management of all facets of the agreements after award to ensure that total performance is in accordance with the agreement and that the obligations of the DOE laboratories are fulfilled.

Property

Property is all property owned by the Government that is acquired through use of NRC funds pursuant to the NRC/DOE Memorandum of Understanding (MOU). This includes all personal and real property, including equipment and furniture.

Request for Proposal (RFP)

The RFP is a document that solicits a proposal from the DOE laboratory, based on the terms and conditions of the RFP.

Scope of Work

1. The scope of work is a concise description of the work required. It delineates the specific tasks to be performed and as well as the actions required of the contractor.
2. The scope of work should explain if tasks are to be performed concurrently or sequentially.
3. If the scope of work deals with required technical reporting, information technology and/or nuclear waste, then the COR should consult Section II.F.4, "SOW Special Considerations," of this handbook.

Sensitive Property

Sensitive property consists of items, regardless of value, that meet the following criteria:

1. The items are considered to be susceptible to being appropriated for personal use or
2. The items can be readily converted to cash (e.g., personal computers, printers, and cameras).

Statement of Work (SOW)

The SOW is the detailed description of the supplies or services required by NRC.

Stop-Work Order

1. A stop-work order is a formal suspension of work via NRC Form 173, "Standard Order for DOE Work."
2. For example, a stop-work order may be issued if technical needs change or if the work is not satisfactory and efforts to correct the project deficiencies have failed.
3. A stop-work order gives parties a specified period of time to resolve issues. If issues are resolved, the office cancels the stop-work order. If issues remain unresolved, then project termination should be considered.

Subcontract

The subcontract is a contract between a DOE laboratory and another organization to furnish a part of the goods or services required under the DOE agreement.

Task

A task is a definable unit of work within a project. Generally, a task has an identified deliverable product and delivery date resulting from the effort.

Task Order

A task order (TO) contains a specific statement of work (SOW) with definable tasks and associated deliverable products and delivery dates issued under a task ordering agreement (TOA). When a specific need is identified in one of the technical areas specified in the TOA, a TO is written, costs agreed to and funded, awarded, and administered.

Task Ordering Agreement

A Task Order Agreement (TOA) states the terms and conditions and general technical areas under which Task Orders *may* be written. A TOA is not funded.

Technical Direction

1. Technical direction includes interpreting technical specifications, providing needed details, suggesting possible lines of inquiry, and shifting emphasis between project tasks.
2. Technical direction does not constitute new work or affect overall project cost or period of performance.

Termination

Termination consists of the cancelling of all or portions of a contract, an agreement, or a subcontract before its completion.

Urgent Work

1. Urgent work is work that is needed and should be accomplished as soon as practicable so as to avoid an adverse impact on the following:
 - (a) The public health and safety with regard to the civilian use of nuclear power, or
 - (b) The agency's mission, which is designed to ensure that the civilian use of nuclear power is safe.
2. This determination is made by the cognizant NRC division director or designee.

Exhibit 2 Acronyms

ADAMS	Agencywide Document Access and Management System
ADM	Office of Administration
AEA	Atomic Energy Act of 1954
APP	advance procurement plan
B&R	budget and reporting
BOC	budget object classification code
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
CIO	Chief Information Officer
CO	contracting officer
COI	conflict of interest
COR	contracting officer's representative
CSO	Computer Security Office
DC	Division of Contracts, Office of Administration
DEDCM	Deputy Executive Director for Corporate Management
DFS	Division of Facilities and Security, Office of Administration
DOC	Division of the Controller
DOE	U.S. Department of Energy
DPB	Division of Planning and Budget, Office of the Chief Financial Officer
EDO	Executive Director for Operations
EDTA	ethylenediaminetetraatic acid
EIS	environmental impact statement
FAC-COTR	Federal Acquisition Certification for Contracting Officer Technical Representative
FAR	Federal Acquisition Regulation

FCO	funds certification official
FIN	financial identification number
FISMA	Federal Information Security Management Act
FSME	Office of Federal and State Materials and Environmental Management Programs
G&A	general and administrative [expenses]
GC	General Counsel
GAO	Government Accountability Office
GFP	Government-furnished property
IAA	interagency agreement
IDIQ	indefinite delivery/indefinite quantity [contract]
IGCE	independent Government cost estimate
IPAC	intergovernmental payment and collection system
IT	information technology
LFRCS	license fee recovery cost status
LMFBR	liquid metal fast breeder reactors
MD	management directive
MLSR	monthly letter status report
MLSRR	monthly letter status report review
MOU	memorandum of understanding
NAIC	North American Industry Classification (NAIC) code
NISPOM	National Industrial Security Program Operating Manual
NMSS	Office of Nuclear Material Safety and Safeguards
NRC	U.S. Nuclear Regulatory Commission
NSIR	Office of Nuclear Security and Incident Response
NUREG	NUREG-series publication

OACA	Office Associate Competition Advocate
OCFO	Office of the Chief Financial Officer
OCOI	organizational conflict of interest
OGC	Office of the General Counsel
OIG	Office of the Inspector General
OIS	Office of Information Services
PBPM	Planning, Budgeting, and Performance Management Process
RFP	request for proposal
RFPA	request for procurement action
SER	safety evaluation report
SGI	Safeguards Information
SOW	statement of work
SSJ	source selection justification
SUNSI	sensitive unclassified non-safeguards information
TAC	technical assignment control [number]
TER	technical evaluation report
TO	task orders
TOA	task ordering agreement