

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

ORDER

DOE O 350.2A

Approved: 10-29-03

This directive was reviewed and certified as current and necessary by James T. Campbell, Acting Director, Office of Management, Budget and Evaluation/Acting Chief Financial Officer, 10-29-03.

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

1. OBJECTIVE. To establish policies and procedures for management of Department of Energy (DOE), including National Nuclear Security Administration (NNSA), Management and Operating (M&O) and other facility management contractor employees assigned to the Washington, D.C., area.

2. CANCELLATION. DOE O 350.2, USE OF FACILITY CONTRACTOR EMPLOYEES FOR SERVICES TO DOE IN THE WASHINGTON, D.C., AREA, dated 7-12-01. Cancellation of this Order does not, by itself, modify or otherwise affect any contractual obligation to comply with DOE O 350.2. Canceled Orders that are incorporated by reference in a contract will remain in effect until the contract is modified to delete the reference to requirements in the canceled Orders.

3. APPLICABILITY.
 - a. DOE Elements. The provisions of this Order apply to all Departmental elements, including those within the NNSA (attachment 1), except for those elements specifically exempted in paragraph 3c.

 - b. Contracts.
 - (1) The Contractor Requirements Document (CRD), Attachment 2, sets forth the requirements of this order which apply to site/facility management contracts that include the CRD.

 - (2) The CRD, must be included in site/facility management contracts where the contractor employees may be assigned to the Washington D.C. area for more than 30 continuous calendar days.

 - (3) This order does not apply to other than site/facility management contracts. Any application of any requirements of this order to other than site/facility management contracts will be communicated separately from this order.

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of Management, Budget and
Evaluation

- (4) The official identified in the Responsibilities paragraph is responsible for notifying the contracting officer of which the site/facility management contracts are affected. Once notified, the contracting officer is responsible for incorporating the CRD into the affected site/facility management contracts via the Laws, regulations and DOE directives clauses of the contracts.
 - (5) As the Laws, regulations, and DOE directives clause of site/facility management contract states, “regardless of the performer of the work, site/facility management contractors with the CRD incorporated into their contracts are responsible for compliance with the requirements of the CRD.”
- c. Exclusions. This Order does not apply to the Power Marketing Administrations or the Office of the Deputy Administrator for Naval Reactors. This Order also does not apply to assignments under Intergovernmental Personnel Act Mobility Program Agreements, Work-for-Others agreements, or such others as may be exempted by the Chief Financial Officer/ Director, Office of Management, Budget and Evaluation (OMBE), or the Associate Administrator for Management and Administration, NNSA.

4. REQUIREMENTS.

- a. The number and types of positions for DOE M&O and other facility management contractor employees located in the Washington, D.C., area must be within approved Headquarters program, site office or M&O or other facility management contractor critical skills staffing plan ceilings approved by the Deputy Secretary.
- b. At the request of a Headquarters program or site office, the Head of the Contracting Activity (HCA) or designee may authorize DOE M&O and other facility management contractors to assign contractor employees in support of program missions to positions in the Washington, D.C., area, provided those positions conform to the following conditions:
 - (1) Contractor employees provide a Headquarters program or site office with technical expertise and experience in the Washington, D.C., area, that is critical to that office’s operation or program(s) when that expertise and experience is neither available within the program or site office nor at lower cost through other types of contracts (e.g., support service contracts);
 - (2) Contractor employees undertake tasks that must be performed in the Washington, D.C., area because staff must coordinate or interface in person

with Headquarters staff or other agencies or because such assignments can be demonstrated to be cost effective for performance of the task; and

- (3) Contractor employees, other than administrative\overhead support staff, provide technical expertise within the mission and scope of work of the contract under which the assignments are made.
- c. The HCA may authorize, with the concurrence of the CSO and consistent with an approved Deputy Secretary facility management contractor administrative\overhead allocation, contractor employees to provide administrative\overhead support to a M&O or other facility management contractor's Washington, D.C., office. The number and types of administrative support staff must be based on good business practices.
 - d. Assignment of DOE M&O and other facility management contractor employees to the Washington, D.C., area must not adversely affect the contractor's mission or otherwise adversely affect the contractor's ability to meet contract commitments.
 - e. DOE M&O and other facility management contractor employees shall not be assigned to the Washington, D.C., area to:
 - (1) Compensate for reductions in support service contracting;
 - (2) Provide administrative support (e.g. clerical or para professional) within Federal facilities or for Federal employees;
 - (3) Perform functions inherently reserved for Federal employees, including directly supervising Federal employees, making fiscal decisions, and/or making policy decisions;
 - (4) Perform assignments that exceed 12 months in duration unless the individual's continued assignment is critical and represents significant mutual benefit to the program sponsor and the facility;
 - (5) Perform contractor business development or lobbying;
 - (6) Extend support beyond the completion of the work assignments; or
 - (7) Perform any function that may be construed as a personal or organizational conflict of interest as referenced in DEAR Subpart 909.5 or 970.0905 and defined in 952.209-72.

- f. DOE M&O and other facility management contractors are not to award subcontracts, or subcontract work tasks, to provide direct support to program offices in the Washington, D.C., area.
- g. DOE M&O and other facility management contractor employee work assignments performed in the Washington, D.C., area must conform to the relevant program or site office critical skills staffing plan (attachment 4) or the contractor's Washington, D.C., office staffing plan (attachment 5). The process required for establishing staffing requirements (attachment 3) is as follows.
 - (1) Each Headquarters program or site office that uses M&O and other facility management contractor employees within the Washington, D.C., area will submit, by July 1, an annual critical skills staffing plan (attachment 4) to the Director, OMBE, or Associate Administrator for Management and Administration, NNSA, as appropriate. Site office plans must be forwarded through and concurred in by the HCA and the Cognizant Secretarial Officer (CSO) prior to submission to the Director, OMBE or Associate Administrator for Management and Administration, NNSA. These plans should list the contractor employees who provide direct support to program organizations sponsoring the assignments. Plans are required to:
 - (a) Delineate the name and the job description including the required skills and expertise to be provided by each contractor employee who will be reimbursed with Departmental funds;
 - (b) Include a proposed ceiling for the number of contractor employees to be assigned during the next fiscal year;
 - (c) Provide total estimated monthly cost (including all indirect costs) for each contractor employee assignment;
 - (d) Detail the percentage of time charged for each contractor employee assignment to a Headquarters program organization(s). If an assignment supports more than one program office, the plan must indicate the percentage of support provided to each program with the aggregate total equaling 100 percent;
 - (e) Identify the facility providing the contractor employee;

- (f) Include estimated start and end dates for each contractor employee assignment;
 - (g) Include the site location for each contractor employee assignment; and
 - (h) Identify the program being supported (e.g. basic energy science).
- (2) If the HCA or designee determines a M&O or other facility management contractor may establish a Washington, D.C., staff office, the HCA or designee will submit, through and with the concurrence of the CSO, a support plan for M&O or other facility management contractor administrative/overhead staffing plan (attachment 5) to the Director, OMBE, or Associate Administrator for Management and Administration, NNSA, as appropriate. The plan is to be submitted by May 1 and list contractor employees performing work for the M&O or other facility management contractor's Washington D.C., office. A staffing plan must:
- (a) Delineate the following positions that are located at the contractor's Washington office and the costs of which are reimbursed by the Department including:
 - 1 all administrative, office support, and overhead positions and
 - 2 any positions that ensure efficient task performance but do not support specific program offices.
 - (b) The plan will also indicate the program account each contractor employee assignment is charged against and the proposed staffing ceiling for the next fiscal year.
- (3) The Director, OMBE, or the Associate Administrator for Management and Administration, NNSA, as appropriate, will consult with affected organizations to recommend to the Deputy Secretary proposed ceiling numbers for each Headquarters program, site, and contractor administrative/overheads staff office based on the total number of contractor employee assignments requested via staffing plans and Congressional report language which limits the total number of assignments permitted DOE-wide. The ceilings are to be approved by the Deputy Secretary, DOE, with concurrence by the Director, OMBE, or the Associate Administrator for Management and Administration, NNSA, as appropriate, by October 1 of each year. The Associate Administrator for

Management and Administration, NNSA and OMBE will distribute approved allocation notifications to appropriate offices.

- (a) DOE program and site offices are responsible for meeting the criteria for contractor assignments and for remaining within approved staffing plan ceilings.
 - (b) Each M&O and other facility management contractor must operate within its approved staffing plan ceiling.
- h. Any DOE Headquarters program or site office facing a critical need to exceed its ceiling may request a waiver from the Deputy Secretary, DOE. Contractor waiver requests to exceed approved administrative/overhead staffing plan ceilings are to be submitted to the HCA for concurrence and necessary coordination. All waiver requests must be concurred in by the CSO, Director, OMBE, before submission to the Deputy Secretary, DOE for approval. For requests from NNSA organizations, concurrence of the Associate Administrator for Management and Administration, NNSA, is also required. The request must include the following information:
 - (1) Justification for modifying the staffing plan and a list of the critical work task(s) that can not be performed by currently assigned contractor employees,
 - (2) The start and end dates for the work assignments requiring the waiver;
 - (3) The organizational subcomponent (or other organization or contractor) to which the contractor employee will provide services;
 - (4) The physical location of the facility contractor employee assignments; and
 - (5) Demonstrate how the contractor employee assignments are cost effective.
- i. All assignments of M&O and other facility management contractor employees to the Washington, D.C., area require the authorization of the HCA or designee. Procedures for approving assignments of these contractor employees in the Washington, D.C., area must, at a minimum, meet the requirements of this order and DOE's Work Authorization Process. The required procedures (attachment 6) must include the following:
 - (1) The DOE Headquarters program or site office, in concert with the M&O or other facility management contractor and the DOE HCA or designee, develops a work authorization statement showing the required skills mix, scope of work,

estimated duration of assignments/needs, reporting requirements, funding source, and any other information required for a work authorization;

- (2) The DOE Headquarters program or site office must certify that Washington, D.C., contractor employee assignments conform to its staffing plan and are within its ceiling allocation;
 - (3) The contractor informs the cognizant DOE contracting officer or designee of the contractor employees qualified and available to be assigned; and
 - (4) The DOE contracting officer or designee examines the work authorization statement to ensure contractor assignments will not adversely affect the M&O or other facility management contractor's performance. The DOE contracting officer or designee or the Headquarters program organization will update the database that has been established to maintain a current inventory of contractor assignments in the Washington, D.C., area.
- j. The DOE contracting officer or designee or the Headquarters program office, contingent on the approval by the HCA or the HCA's designee of a new contractor employee assignment to the Washington, D.C., area or upon the expiration of an existing assignment, enters the appropriate changes into the OMBE M&O and other facility management contractor employee database, within 30 days of when such a change becomes effective. Failure to include a contractor employee in the database will cause any costs associated with that employee (e.g., salary, benefits) to be deemed unallowable under the terms conditions of the contract.

5. RESPONSIBILITIES.

- a. DOE Headquarters Program and Site Offices.
 - (1) Assess the need, duration and cost effectiveness of the tasks and assignments of M&O and other facility management contractor employees.
 - (2) For Headquarters program or site offices requesting assignment(s) of and providing funding for contractor staff complete an annual DOE program M&O and other facility management contractor staffing plan (attachment 4) which delineates required information of contractor employees providing direct technical support to meet program mission needs.
 - (3) Review and concur on all site office and contractor administrative/overhead staffing plans for sites which CSO responsibility has been assigned.

- (4) Prepare requests for temporary waivers to program office staffing ceilings.
- (5) Work with site managers and M&O and other facility management contractors to develop tasks for new facility contractor employee assignments, ensuring that these assignments do not exceed the approved staffing ceiling.
- (6) Establish procedures for the assignment of M&O and other facility management contractor employees to the Washington, D.C., area that, at a minimum, meet the requirements of this order and the Department's Work Authorization Process.
- (7) Maintain a current inventory of contractor assignments accounted under its DOE approved staffing ceiling using the OMBE M&O and Other Facility Management Contractor Employee Database.
- (8) Notify the contracting officer when the CRD to this directive must be included in a M&O or facility management contract.

b. DOE Heads of Contracting Activity.

- (1) Prepare and submit for the CSO's concurrence, an annual site office staffing plan when assignments directly supported by site office funding are being requested (see attachment 4).
- (2) Work with the M&O or other facility management contractor, as needed, to develop a support plan for administrative/overhead staff for the Washington, D.C., area (see attachment 5).
- (3) Authorize work authorizations for M&O and other facility management contractor employees in the Washington, D.C., area (see paragraph 4i).
- (4) Maintain an inventory of current contractor assignments accounted under its DOE approved staffing ceiling using the OMBE M&O and Other Facility Management Contractor Employee Database.
- (5) Review the contractor's use of government and contractor leased space to ensure that Government-owned or leased space is used to the maximum extent practicable.
- (6) Periodically review M&O and other facility management contractor staffing assignments to ensure conformance with site office staffing plans.

- (7) Modify contracts to include the CRD to this directive when appropriate.
- (8) Approve designation of alternative local senior management officials to approve staffing plans or individual assignments.

c. Office of Management, Budget and Evaluation, and Associate Administrator for Management and Administration, NNSA.

- (1) Work with Program Secretarial Officers (PSOs) and CSOs, to review, evaluate, and recommend for the Deputy Secretary's approval staffing plans proposed by DOE program and site offices.
- (2) Work with PSOs and CSOs and recommend for the Deputy Secretary's approval annual staffing ceilings for facility contractor employee assignments for each DOE program, site and contractor office.
- (3) Maintain a composite inventory of M&O and other facility management contractor employees in the Washington, D.C., area.
- (4) Review and concur and recommend when appropriate for the Deputy Secretary's approval requests for waivers to the approved program, site and contractor employee staffing ceilings.
- (5) Coordinate with the appropriate Chief Financial Officers on any reports to Congress.
- (6) Issue approved allocation notifications for individual organizations in accordance with the Deputy Secretary's decisions.
- (7) Prepare and submit Congressional reports on coordination with program and site offices.

6. REFERENCE. DOE O 412.1, *Work Authorization System*, dated 4-20-99, established the work authorization and control process for work performed by site management contractors for DOE.

7. DEFINITIONS.

- 1. M&O or other facility management contractor employee is any employee of either a M&O or other facility contractor responsible for managing a Department of Energy (DOE) owned facility, such as a National Laboratory, or a subcontractor to such a contractor.

2. M&O and other facility management contractor assignments are assignment of M&O or other facility management contractor employee to the Washington, D.C., area for more than 30 continuous calendar days where a contractor employee provides a Headquarters program or site office with technical expertise and experience in the Washington, D.C., area, that is critical to that office's operation or program(s) or provides administrative/overhead support to a M&O or other facility management contractor's Washington, D.C., staff office.
 3. Program or site office critical staffing plans are plans prepared by DOE program or site offices which list the contractor employees who provide direct support to program organizations sponsoring the assignments.
 4. Support plan for M&O or other facility contractors administrative/overhead staffing plan for the Washington D.C., area are developed and submitted by the contractor to request or continue assignments of contractor staff employees assigned to performing work directly for the M&O or other facility management contractor's Washington D.C., office.
8. CONTACT. For information about this Order, contact the Office of Procurement and Assistance Management, Acquisition Planning and Liaison Division, at 202-586-3299.

BY ORDER OF THE SECRETARY OF ENERGY:



KYLE E. McSLARROW
Deputy Secretary

DOE ORGANIZATIONS TO WHICH DOE O 350.2A IS APPLICABLE

This Order is applicable to the following DOE organizations and their associated Federal field elements:

Office of the Secretary
Chief Information Officer
Office of Civilian Radioactive Waste Management
Office of Congressional and Intergovernmental Affairs
Office of Counterintelligence
Departmental Representative to the Defense Nuclear Facilities Safety Board
Office of Economic Impact and Diversity
Office of Electric Transmission and Distribution
Office of Energy Efficiency and Renewable Energy
Energy Information Administration
Office of Environment, Safety and Health
Office of Environmental Management
Office of Fossil Energy
Office of General Counsel
Office of Hearings and Appeals
Office of Independent Oversight and Performance Assurance
Office of the Inspector General
Office of Intelligence
Office of Management, Budget and Evaluation and Chief Financial Officer
National Nuclear Security Administration (Excluding Office of the Deputy Administrator for Naval Reactors)
Office of Nuclear Energy, Science and Technology
Office of Policy and International Affairs
Office of Public Affairs
Office of Science
Secretary of Energy Advisory Board
Office of Security
Office of Worker and Community Transition
Office of Energy Assurance

CONTRACTOR REQUIREMENTS DOCUMENT
DOE O 350.2A, *Use of Facility Contractor Employees for Services*
to DOE in the Washington D.C., Area

1. Any M&O or other facility management contractor employee providing services subject to the provisions of this Order must be listed in the database of M&O or other facility management contractor employees. Failure to list an employee in the database will cause any costs associated with that employee (e.g., salary and benefits) to be deemed unallowable under the terms and conditions of the contract. ~~Payments to a M&O or other facility management contractor employee for any additional tax burden caused by an extended assignment will also be deemed unallowable.~~
2. The contractor is not permitted to award subcontracts or subcontract work tasks, to provide direct support to Headquarters program or staff offices in the Washington DC area.
3. The contractor must prepare and submit to the HCA an annual support staffing plan for continuation of an existing or the creation of a new administrative/overhead staff office in the Washington, D.C. area. These staffing plans are required to:
 - (a) Delineate the following positions that are located at the contractor's Washington office and the costs of which are reimbursed by the Department including;
 - 1 all administrative, office support, and overhead positions and
 - 2 any positions that ensure efficient task performance but do not support specific program offices.
 - (b) The plan will also indicate the program account each assignment is charged against and the proposed staffing ceiling for the next fiscal year.
4. The contractor must operate within its approved annual support plan for administrative/overhead staffing plan ceiling. Waiver requests to exceed approved staffing plan ceilings are to be submitted to the HCA for concurrence and coordination.
5. The contractor must obtain approval of the M&O or other facility management contractor's HCA or designee, prior to assigning employees to positions in the Washington, D.C., area.
6. The contractor must provide any needed information to the HCA, or his or her designee, in support of such assignments. This information may include:
 - a. rationale and description of required skills and expertise being provided;

- b. determination that there is no adverse impact to work at the contractor's site based on the selection of any personnel identified by the contractor as qualified and available for the assignment;
- c. determination that the assignment is critical and significant and mutually beneficial to both the program and facility if the assignment exceeds 12 months;
- d. determination that the work to be performed by the employee is within the scope of the facility management contract through which the assignee is employed and the assignment conforms with the staffing plan;
- e. cost breakout for each assignment (including all indirect costs);
- f. notification of completion of work assignment;
- g. when applicable prepare a justification for requesting a waiver of the Deputy Secretary's approved ceiling based on critical need;
- h. assist as need in the development of Work Authorization Statements showing the required skills mix, scope of work, estimated duration, reporting requirements and funding sources for individual assignments.

Establishing A M&O or Other Facility Management Contractor Employee Staffing Plan

Headquarters Program Office	Required Time Frame	OMBE/NNSA	Required Time Frame
<p>Prepares an annual critical skills staffing Plan (attachment 4).</p> <p>Maintains on-line database inventory of current assignments consistent with the approved program critical skills staffing plan.</p> <p>Requests waivers to the program staffing plan ceiling.</p>	July 1	<p>Review program, critical skills staffing plans. Recommend ceilings for each program office for the Deputy Secretary's approval.</p>	<p>Deputy Secretary approves ceilings by October 1</p>
	As required	<p>Review requests for waivers from established ceilings and provide recommendation to the Deputy Secretary.</p>	<p>Waiver approved denied by the Deputy Secretary</p>
<p style="text-align: center;">HCA</p> <p>As needed, develops facility mgt administrative/overhead plan (attachment 5). Submit plans with the concurrence of and through the CSO.</p> <p>Works with the M&O or other facility mgt contractor to develop as needed, a site office critical skills staffing plan (attachment 4). Submit plans with the concurrence of and through the CSO.</p> <p>Maintains on line data base inventory of current assignments consistent with the site and contractor ceilings</p>	May 1	<p>Review site critical skills staffing plans. Recommend ceilings for each site and contractor office based on the critical skills staffing plan for the Deputy Secretary's approval.</p>	<p>Deputy Secretary approves ceilings by October 1</p>
	July 1	<p>Review site critical skills staffing plans. Recommend ceilings for each site and contractor office based on the critical skills staffing plan for the Deputy Secretary's approval.</p>	<p>Deputy Secretary approves ceilings by October 1</p>
	As required	<p>Prepares congressional report regarding status of M&O or other facility management contractor employees in Washington, D.C.</p>	<p>Submits congressional reports as necessary</p>
			<p>Assistance provided by OMBE or the Headquarters Personnel Officer, NNSA.</p>

**DOE PROGRAM OR SITE OFFICE
M&O OR OTHER FACILITY MANAGEMENT CONTRACTOR
EMPLOYEE CRITICAL SKILLS STAFFING PLAN
OFFICE OF**

Fiscal Year 20_____

Current Year Allocation: _____

Current Number of Active Assignments: _____

Proposed Number of Assignments: _____

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

For Headquarters Program Plans: For Site Office Plans:

(Program Secretarial Officer) (Cognizant Secretarial Officer)
July 1, 20__) (July, 20__)

**ANNUAL SUPPORT PLAN FOR M&O OR OTHER FACILITY MANAGEMENT
CONTRACTOR ADMINISTRATIVE/OVERHEAD STAFF
FOR WASHINGTON, D.C., OFFICES
FY 20 ____**

(See paragraph 4g(2) of DOE O 350.2A)

DOE Contractor: _____ Phone Number: _____

Address: _____

Washington, D.C., offices:

This allocation request is to:

Establish a new Office within the Washington D.C. area. _____.

Continue an existing Office within the Washington D.C. area. _____.

Contractor Office: _____
Office Manager: _____
Address: _____
Phone Number: _____

Current Year Allocation: _____

Current Number of Active Assignments: _____

Proposed Number of Assignments: _____

Site (name):

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

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

Ratio of Administrative to Technical Staff

Site Name and Number	Total Administrative (Admin.) Staff (FTEs)	Total Technical (Tech.) Staff* (FTEs)	Ratio (Admin.:Tech.)

*Includes professional technical staff only.

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

Itemized Costs for Maintaining Offices*

Site Name and Number	Estimated FY____**	versus [†]	Previous FY____**
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*Include previously estimated staffing costs. **Total for each site.

[†] Explain significant variances using additional pages if necessary.

Approvals:

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

DOE Contracting Officer
(DOE site office)

Contractor's Representative

Procedures for Work Assignments in Washington, D.C.

