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United States
Department of Defense



DoD Does Not Have Visibility Over the Use of Funds
Provided to the Department of Energy

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Acronyms

ADA	Antideficiency Act
CAP	Corrective Action Plan
COR	Contracting Officer's Representative
DOE	Department of Energy
DPAP	Defense Procurement and Acquisition Policy
FAR	Federal Acquisition Regulation
FMR	Financial Management Regulation
FPDS	Federal Procurement Data System
MOA	Memorandum of Agreement
NNSA	National Nuclear Security Administration
OIG	Office of Inspector General
USD(AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics
USD(C)	Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD
WFO	Work for Others



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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February 15, 2013

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,
TECHNOLOGY, AND LOGISTICS
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/
CHIEF FINANCIAL OFFICER, DoD

SUBJECT: DoD Does Not Have Visibility Over the Use of Funds Provided to the
Department of Energy (Report No. DODIG-2013-046)

We are providing this report for your information and use. DoD officials did not place a priority on interagency acquisitions between DoD and the Department of Energy. As a result, DoD had no visibility or internal controls over about \$7.3 billion in DoD funds used for the Department of Energy Work for Others program from FY 2010 through FY 2012.

We considered management comments on a draft of this report when preparing the final report. The management comments conformed to the requirements of DoD Directive 7650.3; therefore, additional comments are not required.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9077 (DSN 664-9077).

Jacqueline L. Wicecarver
Jacqueline L. Wicecarver
Assistant Inspector General
Acquisition and Contract Management



Results in Brief: DoD Does Not Have Visibility Over the Use of Funds Provided to the Department of Energy

What We Did

The overall audit objective was to determine whether the memorandum of agreement (MOA) and corrective action plan (CAP) between DoD and the Department of Energy (DOE) addressed the findings in DoD OIG Report No. D-2011-021, "More DoD Oversight Needed for Purchases Made Through the Department of Energy," December 3, 2010, and to determine whether DoD personnel complied with the roles and responsibilities outlined in the MOA.

What We Found

To address conditions identified in the previous audit report, Defense Procurement and Acquisition Policy (DPAP) and DOE officials agreed to corrective actions in the MOA and CAP. However, DPAP officials did not fully implement or verify compliance with the MOA and CAP. Specifically, DPAP officials did not develop a standardized reporting system to allow DoD officials to track funds provided to DOE; issue guidance that required technical project managers performing oversight to meet standard contracting officer's representative training requirements; or formally collaborate or meet quarterly with DOE.

These conditions occurred because DPAP officials did not place a high priority on implementing the terms of the MOA and CAP. As a result, DoD did not have visibility over approximately \$7.3 billion in funds provided to DOE from FY 2010 through FY 2012.

We also determined that Air Force and Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, (USD[C]) officials did not perform a review of a potential

Antideficiency Act violation, as recommended in Report No. D-2011-021.

What We Recommend

We recommend that the Director, DPAP:

- direct DoD Components to perform a review to determine whether they are complying with the MOA and Defense policies issued as a result of the MOA;
- coordinate with the USD(C) to develop a method for gathering data for DoD-related projects with DOE;
- implement the remaining action items in the CAP; and
- establish a quality control process to enforce the requirement for DoD Components to provide monthly obligation reports for funds provided to DOE and maintain them in an auditable system.

We recommend that the USD(C):

- require DoD Components to use a standard funding document number where the first six positions are the DoD activity address code for the funding agency;
- require DoD Components to provide the USD(C) with copies of all funding documents sent to DOE; and
- instruct the Air Force to initiate a review of the potential Antideficiency Act violation.

Management Comments and Our Response

The Director, DPAP, and the USD(C) generally agreed with the recommendations. The comments were responsive and no further comments are required. Please refer to the recommendation table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Director, Defense Procurement and Acquisition Policy		A.1
Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD		A.2 and B

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Introduction

Objective

The overall objective of the audit was to determine whether the memorandum of agreement (MOA) and corrective action plan (CAP) between DoD and the Department of Energy (DOE) addressed the findings in the previous audit and to determine whether DoD personnel complied with the roles and responsibilities outlined in the MOA. To address the conditions identified in DoD Office of Inspector General (OIG) Report No. D-2011-021, “More DoD Oversight Needed for Purchases Made Through the Department of Energy,” December 3, 2010, the Director, Defense Procurement and Acquisition Policy (DPAP), developed a MOA with DOE officials. The MOA, “Governing Department of Defense Funded Work Performed at the Department of Energy Laboratories and Facilities,” September 2010, outlined DoD and DOE roles and responsibilities when DOE made purchases on behalf of DoD customers. The MOA included the CAP.

DoD and DOE officials could not provide a complete list of FY 2011 DoD-related projects. Therefore, we did not perform a full assessment of DoD’s compliance with the roles and responsibilities outlined in the MOA. See Appendix A for a discussion of the scope and methodology. See Appendix B for prior coverage related to the objective.

Background

This audit was part of a series of congressionally mandated audits required by Public Law 110-417, “Duncan Hunter National Defense Authorization Act for Fiscal Year 2009,” section 804, “Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies,” October 14, 2008, which amends Public Law 109-364, “John Warner National Defense Authorization Act for Fiscal Year 2007,” section 817, “Internal Controls for Procurement on Behalf of the Department of Defense by Certain Non-Defense Agencies,” October 17, 2006, and requires the DoD OIG to review DOE purchases made on behalf of DoD customers.

Interagency Acquisition

In 2005, the Government Accountability Office designated management of interagency contracting as a high risk area. Interagency acquisition is the term used to describe the procedure by which an agency needing supplies or services obtains them through another agency’s contract, the acquisition assistance of another agency, or both. Interagency acquisitions typically involve two Government agencies: the requesting agency and the servicing agency. The requesting agency is the agency with the requirement and the servicing agency provides acquisition support. There are two types of interagency acquisitions—direct and assisted. Direct acquisitions involve a requesting agency placing an order for goods or services against a servicing agency’s existing contract. Assisted acquisitions involve a servicing agency acquiring goods or services on behalf of a requesting agency. In addition, for an assisted acquisition, the servicing agency and the requesting agency must sign a written interagency agreement that establishes the general

terms and conditions governing the relationship between the parties. The interagency agreement includes the roles and responsibilities for acquisition planning, contract execution, and administration and management of the contract or order.

DOE and the National Nuclear Security Administration

The mission of DOE was to ensure America's security and prosperity by addressing its energy, environmental, and nuclear challenges through transformative science and technology solutions. According to DOE's website, DOE had 10 program offices, 21 laboratories and technology centers, and 9 field sites. Of the 21 laboratories and technology centers, contractors operated or managed 19. In addition, DOE's website identified 39 facility management contracts administered by its offices. One of those offices was the semi-autonomous National Nuclear Security Administration (NNSA). Congress established NNSA in 2000 as a separate agency within DOE. NNSA was responsible for the management and security of the nation's nuclear weapons, nuclear nonproliferation, and naval reactor programs. According to NNSA's website, it had eight sites where federally-run site offices oversaw contractors. Those eight site offices provided the necessary communication between Federal and contractor employees. A ninth NNSA location provided business, technical, financial, legal, and management advice and services.

DOE Work for Others Program

DOE Order 481.1C, "Work for Others (Non-Department of Energy Funded Work)," approved on January 24, 2005, and updated on March 14, 2011, describes the Work for Others (WFO) program. The WFO program allows DOE and NNSA facilities and their respective contractor personnel to perform work on behalf of other agencies.

According to a DOE senior financial policy specialist, DoD provided funds to DOE and DOE then placed those funds on one of its existing contracts. The DOE senior financial policy specialist also stated that DoD can provide funding to DOE and NNSA in three ways. DoD can provide funds:

- directly to the laboratory or facility of its choosing,
- to an overall site office or program office that can then disburse the funds to laboratories and facilities under its purview, or
- to DOE headquarters and DOE can disburse the funds internally.

In addition, a DOE official stated that DOE can add DoD funds it receives to any DOE contract or grant. DOE obligated approximately \$2.4 billion in DoD funds in FYs 2010 and 2011 and approximately \$2.5 billion in DoD funds in FY 2012, for work to be performed at DOE's laboratories and facilities.

DPAP Section 801 Waivers

Public Law 110-181, "National Defense Authorization Act for Fiscal Year 2008," section 801, "Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies," January 28, 2008, states that DoD may not procure property or services from a non-Defense agency that did not certify it would comply with

Defense procurement requirements. However, the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD[AT&L]) may issue a written waiver (Section 801 Waiver) stating that the use of a specific non-Defense agency was necessary and in the best interest of DoD.¹ DOE did not certify that it would comply with Defense procurement requirements. Therefore, beginning in FY 2010, the Director, DPAP, issued Section 801 Waivers allowing DoD to provide funds to DOE not to exceed a specified threshold. Table 1 shows each of the Section 801 Waivers, their period of coverage, and their threshold limit. See Appendix D for the Section 801 Waivers.

Table 1. Section 801 Waivers

Waiver Title	Period of Coverage	Threshold (in billions)
FY 2010	October 1, 2009 – March 31, 2010	*
FY 2010[A]	October 1, 2009 – September 30, 2010	\$2.2
FY 2011	October 1, 2010 – September 30, 2011	2.5
FY 2012	October 1, 2011 – September 30, 2012	2.5
Total		\$7.2

* The FY 2010[A] Section 801 Waiver amended the FY 2010 Section 801 Waiver that included a \$900 million FY 2010 Section 801 Waiver threshold. To avoid duplication, we did not include the \$900 million FY 2010 Section 801 Waiver threshold in the table.

Previous Audit

The audit objective of DoD OIG Report No. D-2011-021 was to examine the policies, procedures, and internal controls to determine whether there was a legitimate need for DoD to use DOE, whether DoD clearly defined requirements, whether DoD and DOE properly used and tracked funds, and whether DoD and DOE complied with Defense procurement requirements. We reported on 14 WFO projects and identified contracting and funding issues, including DOE not certifying that it would comply with the requirements of Section 801 of the National Defense Authorization Act for FY 2008 and potential Antideficiency Act (ADA) violations.

We recommended that the USD(AT&L) resolve the Section 801 noncompliance issues. We recommended that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, (USD[C]) instruct the Services and Defense Threat Reduction Agency to initiate preliminary reviews of potential Antideficiency Act violations and update the DoD Financial Management Regulation (FMR) with general and detailed funding guidance. We also recommended that Acquisition Executives for the Army, Navy, and Air Force, and the Director, Defense Threat Reduction Agency, make program and contracting officers aware of their responsibilities for obtaining and reviewing detailed cost information for individual projects that DOE awards on behalf of DoD. See Appendix E for the management actions taken for the recommendations in DoD OIG Report No. D-2011-021.

¹ USD(AT&L) delegated the authority to issue waivers to DPAP.

MOA, Corrective Action Plan, and Interagency Agreement

To address the conditions identified in DoD OIG Report No. D-2011-021, DoD and DOE officials jointly developed the MOA. The purpose of the MOA was to define the working relationship between DoD and DOE for DoD-funded work performed in accordance with the WFO program. The CAP, attached to the MOA, identified several action items and the milestone dates for each of those actions. Examples of the action items include developing policies, standard cost elements for WFO project proposals, and standardized reporting requirements outside of the Federal Procurement Data System (FPDS). For a complete list of action items and the milestone dates, see Appendix C. DoD and DOE officials also jointly developed the Standard Interagency Agreement Part A, an overarching agreement for DoD requests to DOE. The Interagency Agreement, “General,” stated, “[a]ll work in support of and directly funded by the DoD under the DOE [WFO] program, will be administered in accordance with the signed [MOA], dated 16 September 2010, between the departments.”

Review of Internal Controls

DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010, requires DoD organizations to implement a comprehensive system of internal controls that provide reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls. We identified internal control weaknesses for DPAP. DPAP officials did not comply with the MOA and CAP or develop standardized reporting requirements outside of FPDS or require DOE to comply with Federal Acquisition Regulation (FAR) Subpart 4.6, “Contract Reporting.” In addition, DoD and DOE could not provide a complete list of detailed WFO project data or funding amounts within a reasonable timeframe,² and DPAP officials did not perform the tracking necessary to meet the Section 801 Waiver requirements. This occurred because DPAP officials did not place a priority on keeping track of DoD-related WFO projects. We will provide a copy of the report to the senior official responsible for internal controls at the Office of USD(AT&L).

² On May 24, 2012, DOE accounting and finance officials stated it would take several months to retrieve the detailed WFO data. They stated in order to retrieve the detailed data DOE officials would need to issue a data call to each of the laboratories and facilities each of which would need personnel to manually retrieve the detailed WFO data and then compile it for the audit team.

Finding A. DoD Officials Lack Visibility Over Funds Sent to and Work Performed by DOE

DPAP and DOE officials addressed the previous audit findings by agreeing to six corrective actions³ in the MOA and CAP. DPAP officials implemented three of the agreed-upon correction actions. DPAP officials:

- performed a feasibility study, jointly with DOE, to determine whether DoD could use direct acquisition to purchase from DOE contractors;
- established standardized cost elements in cost proposals; and
- issued a policy memorandum requiring a DoD contracting officer to review any funding increment sent to DOE in excess of \$100,000 for DOE purchases made on behalf of DoD.

DPAP officials did not implement the remaining three agreed-upon corrective actions. Specifically, DPAP officials did not:

- develop standardized reporting requirements, jointly with DOE, outside of FPDS to allow DoD officials to track funds provided for DOE purchases made on behalf of DoD;
- issue guidance to require technical project managers⁴ performing oversight on a WFO project to meet standard contracting officer's representative (COR) training requirements. Proper training for the technical project managers would ensure that they have the necessary skills to verify that DOE effectively and efficiently performed work on DoD's behalf and validated that DOE contractors invoiced costs appropriately; or
- meet quarterly with DOE to discuss interagency acquisition issues, evaluate the terms of the MOA, or assess the effectiveness of the CAP.

In addition, DPAP officials did not verify or require DoD Components to verify compliance with the MOA and resultant policies.

DPAP officials did not implement three of the six agreed-upon corrective actions because they did not place a high priority on implementing the terms of the MOA and CAP. As a result, DoD did not have visibility over approximately \$7.3 billion in funds DOE obligated for WFO projects—\$2.4 billion in FYs 2010 and 2011 and \$2.5 billion in FY 2012. In addition, DoD officials had to rely on DOE to monitor DoD funding levels.

³ The CAP reflects seven action items, but one action item was to “execute the Memorandum of Agreement.”

⁴ The MOA, section IV, “Administration,” paragraph E, states, “DoD is responsible for technical project management and will identify in the interagency agreement a technical project manager/COR for each project. This DoD official shall monitor technical, cost, and schedule performance of the project, and notify the DOE contracting officer of any questioned costs or performance issues.”

MOA and CAP Identify Corrective Actions, but the Implementation of Actions Is Inconsistent

DoD and DOE officials jointly developed an MOA and CAP to address conditions identified in DoD OIG Report No. D-2011-021. DoD and DOE officials must manage and provide oversight in compliance with the MOA and CAP for work performed by DOE on behalf of DoD customers. DoD officials were required by the CAP to:

- perform a study, jointly with DOE, to determine whether it is desirable and feasible for DoD to purchase from DOE contractors through direct acquisition (Implemented);
- establish standardized cost elements for DOE to include in its cost proposals for DoD, so DoD contracting officials can assess each project’s cost proposal for price reasonableness (Implemented);
- issue a policy memorandum requiring a DoD contracting officer to review any funding increment sent to DOE in excess of \$100,000 for DOE purchases made on behalf of DoD (Implemented);
- develop, jointly with DOE, standardized reporting requirements outside of FPDS (Not Implemented);
- issue a policy requiring technical project managers performing oversight on a DoD-related WFO project to meet COR training requirements (Not Implemented); and
- meet with DOE quarterly to address interagency acquisition issues, MOA issues, and CAP items (Not Implemented).

Compliance With Policy Was Untested and Implementation of the MOA and CAP Was Not a High Priority

A DPAP official stated that DPAP did not place a high priority on implementing the terms of the MOA and CAP. In addition, DPAP officials did not verify compliance with their policies because officials did not monitor or require DoD Components to monitor DoD customers’ implementation of the MOA and resultant policies. Specifically, DPAP officials did not monitor whether DoD customers received and reviewed detailed cost proposals from DOE, DoD contracting officers reviewed funding increments greater than \$100,000, or a technical project manager or COR was assigned to each WFO project. In addition, the DPAP Policy Memorandum did not specifically require technical project managers to receive the same training as CORs. Also, DPAP officials did not conduct quarterly meetings with DOE officials.

A DPAP official stated that DPAP relies on DoD OIG audits to determine whether DoD Components comply with DPAP policies.

A DPAP official stated that DPAP relies on DoD OIG audits to determine whether DoD Components comply with DPAP policies. The FY 2012 Section 801 Waiver signed by the Director, DPAP, states that our findings in Report No. D-2011-021 “do not warrant limiting DoD’s use of DoE support.” In addition, the Director,

DPAP, determined in the FY 2012 Section 801 Waiver that “it is necessary and in the interest of the [DoD] to continue to procure property and services through DoE” and authorized DoD Components to continue to purchase through DOE regardless of the implementation of any agreed-upon corrective actions.

DoD Direct Acquisition Through DOE Not Feasible

DPAP officials determined that it was not feasible for DoD to purchase through DOE using direct acquisition. The Director, DPAP, in coordination with DOE officials, prepared the study, “Department of Defense Potential for Direct Purchases From National Nuclear Security Administration Sites,” April 16, 2012, as required by the CAP. The study described the unique relationship between DOE and its contractors. DOE’s contractors provide skilled personnel, but do not have the infrastructure to perform the work. DOE, not the contractor, owns the infrastructure (laboratories and assets) used to perform the work. Therefore, DOE is the only entity that can authorize work under those contracts. Because of that, DPAP officials determined that “. . . it would be impossible and inappropriate for DoD to attempt to contract directly with [DOE] contractors.”

Standardized Cost Elements Provided Necessary Level of Detail but Compliance Unknown

DPAP officials did not have a process to determine whether DoD customers received and reviewed detailed cost proposals from DOE. The MOA and interagency agreement listed the detailed cost elements required to be in DOE proposals for WFO projects performed on behalf of DoD customers. In addition, the MOA, section IV, “Administration,” paragraph C, and the Director, DPAP, Policy Memorandum,⁵ (DPAP Policy Memorandum) September 24, 2010, (updated on September 30, 2011) require DoD officials to assess each project’s cost proposal and document the assessment of cost reasonableness. The Director, DPAP, should require DoD Components to verify that DoD customers are receiving and reviewing detailed cost proposals from DOE.

Policy for DoD Contracting Officer Review Issued but Compliance Unknown

DPAP officials did not have a process in place to determine whether DoD contracting officers reviewed funding sent to DOE in excess of \$100,000. The DPAP Policy Memorandum requires DoD contracting officers to review any funding increment in excess of \$100,000 being sent to DOE for WFO projects. DoD contracting officers are required by the policy to ensure sufficient market research was completed; descriptions of supplies and services were specific, definite, and certain; the interagency agreement documented cost/price reasonableness; and that a qualified DoD technical project manager/COR was identified and appointed. The Director, DPAP, should require DoD Components to perform a review to determine whether DoD contracting officers reviewed funding sent to DOE in excess of \$100,000.

⁵ “Department of Defense (DoD)-Wide Policy for Using the Department of Energy’s (DoE’s) Work for Others (WFO) Program to Access DoE-Owned Research, Development, and Production Facilities through Interagency Agreements (IAs) in Fiscal Year 2011”

No Plans for Standardized Reporting Requirements Outside of FPDS

DoD and DOE officials did not jointly develop standardized reporting requirements outside of FPDS, even though the CAP included that requirement with a due date of

DoD officials have no capability to capture data for specific WFO projects.

May 2011 to commence reporting. In addition, DPAP and DOE officials stated that they had no plans to develop separate reporting requirements outside of FPDS. Until DoD and DOE Components participating in interagency acquisitions develop standardized reporting requirements, DoD officials have no capability to capture data for specific WFO projects.

A USD(C) official stated that Department of Treasury officials were developing and implementing a new reporting system—the Invoice Processing Platform—that could standardize payment reporting between Federal agencies. According to a Department of Treasury Financial Management Services Invoice Processing Platform official, the Marine Corps began a pilot program of the Invoice Processing Platform for internal transactions in July 2012. The Department of Treasury official stated that the rest of DoD did not have implementation dates or plans. The Director, DPAP, in coordination with the USD(C), should determine whether the Invoice Processing Platform meets DoD’s needs to obtain required data for tracking WFO projects. If the Director, DPAP, and the USD(C) determine that the Invoice Processing Platform is inadequate or unavailable for immediate use, they should develop alternatives for gathering data for WFO projects.

Requirement to Designate a Technical Project Manager/COR Existed but a Policy for Their Training Not Developed

DPAP officials did not know whether DoD officials designated technical project managers/CORs for each project as required by the MOA, section IV, “Administration,” paragraph E. The DPAP Policy Memorandum requires DoD Components to identify “[a] qualified DoD technical project manager/COR” to perform COR functions. However, the policy does not specifically require training for technical project managers acting as CORs. DoD officials were required by the CAP to issue a policy memorandum that required any technical project manager performing oversight to meet COR training requirements. The Director, DPAP, should clarify the policy memorandum requiring DoD technical project managers assigned to WFO projects to meet COR training requirements.

Quarterly Meetings With DOE Did Not Occur

DoD officials did not meet quarterly with DOE to discuss interagency acquisition, evaluate the terms of the MOA, or determine the effectiveness of the CAP as required by the MOA and CAP. DoD and DOE officials participated in informal conversations; however, according to a DPAP official, those conversations were not specific to the funding or management of the work DOE performed for DoD. DPAP personnel should

meet at least quarterly with DOE officials to discuss interagency acquisition, terms of the MOA, and effectiveness of the CAP and document the results of the meetings.

No Visibility Over Funding

DoD had no visibility over approximately \$7.3 billion provided to DOE from FY 2010 through FY 2012 for DoD-related WFO projects. DOE will not certify that it will comply with Defense procurement requirements.

Specifically, DOE officials certified that DOE would comply in FY 2010 with the FAR and the Department of Energy Acquisition Regulation but not with Defense procurement requirements. However, DPAP officials determined that the certification was not sufficient to meet Section 801 requirements and issued a Section 801 Waiver and amendment for FY 2010.⁶ DOE did not certify it would comply with Section 801 requirements in FY 2011 or FY 2012. The Director, DPAP, issued Section 801 Waivers, totaling \$7.2 billion, from FY 2010 through FY 2012. DPAP and USD(C) officials stated that DoD relied on DOE to monitor funding levels to verify compliance with the Section 801 Waiver thresholds.

DoD had no visibility over approximately \$7.3 billion provided to DOE from FY 2010 through FY 2012

DoD officials currently have no mechanism to monitor those funding levels. Public Law 109-282, “Federal Funding Accountability and Transparency Act of 2006,” September 26, 2006,⁷ and FAR subpart 4.6, “Contract Reporting,” require Federal agencies to record all Federal awards and detailed data associated with those awards, including the agency that funded the award.

Reporting Requirements

The Federal Funding Accountability and Transparency Act of 2006 required all executive agencies’ Federal award data to be publicly accessible and stated that FPDS may be used as a source for Federal award data. FAR subpart 4.6 identified the specific procedures for entering data into FPDS.

Federal Funding Accountability and Transparency Act of 2006

Beginning in FY 2007, the Federal Funding Accountability and Transparency Act of 2006 required the Office of Management and Budget to maintain a single, publicly available, searchable website to report all federally awarded funds at the contract level, including all subcontract awards attributed to the contract, in excess of \$25,000. The Act required Federal agencies to comply with the instructions and guidance issued by the

⁶ The Director, DPAP, issued a Section 801 Waiver for FY 2010 that covered DoD requirements through March 31, 2010. On March 30, 2010, the Director, DPAP, issued an amendment to the Section 801 Waiver for FY 2010 that covered DoD requirements for the entire fiscal year.

⁷ The Federal Funding Accountability and Transparency Act of 2006 was amended by Public Law 110-252, “Government Funding Transparency Act of 2008,” section 6202, “Disclosure Requirements,” June 30, 2008.

Director of the Office of Management and Budget. In addition, the Act required the website to identify for each Federal award:

- the name of the entity receiving the award,
- the amount of the award,
- the funding agency,
- an award title descriptive of the purpose of each funding action, and
- the location of the entity receiving the award and the primary place of performance.

The resulting website was USASpending.gov. The Act stated that FPDS may be used as a source of information to populate the website.

FAR Subpart 4.6, “Contract Reporting”

FAR Subpart 4.6 established the uniform reporting requirements for FPDS. FAR Subpart 4.6 requires executive agencies to use FPDS to maintain publicly available information about all contract actions exceeding \$3,000. In addition, it requires agencies awarding assisted or direct acquisitions to report the actions and identify the funding agency. FAR Subpart 4.6 also states that the contracting officer who awarded the contract action has the responsibility for submitting the individual contract action into FPDS.

Detailed WFO Data Not Readily Available

DoD officials cannot use FPDS to identify specific DoD-related WFO projects or to determine how much funding DoD provided to DOE during a particular fiscal year because, as reported in Report No. D-2011-021, NNSA contracting officials entered global contract modifications in FPDS without entering the detailed funding information for each WFO project. For example, we reported that NNSA contracting officials included 2,157 funding documents in one contract modification and only two of those funding documents related to a WFO project for DoD. The total of those 2,157 funding documents was \$10.7 million and DoD’s portion of that funding was only \$371,823. However, the audit team could not identify the individual funding agency information from FPDS.

In addition, a DOE acquisition official stated in a January 15, 2009, memorandum that FPDS was:

not programmed to collect multiple funding sources on a single transaction. Therefore, the contracting officer must execute multiple contract modifications in order to report actions that have more than one funding source. This requirement places a significant burden on DOE’s acquisition workforce.

DOE officials stated obtaining detailed information would require DOE personnel to issue a data call to each DOE laboratory and facility. DOE officials also stated the data call would require a review of hardcopy project files to provide the requested detailed information and would take several months to gather.

In addition, a USD(C) official stated after attempting to obtain similar information from DOE for over 2 years, he still did not have a complete and detailed list of funding documents and corresponding accounting information. To more quickly improve DoD's ability to obtain WFO project and funding data from DOE, the USD(C) should require DoD Components providing funds to DOE to use a standard funding document number where the first six positions are the DoD activity address code for the funding agency. In addition, the USD(C) should require DoD Components to provide the USD(C) with copies of all funding documents sent to DOE.

Obligation Reports Required by Section 801 Waiver Not Collected

DPAP officials did not obtain monthly obligation reports needed to track funding provided to DOE, except from the Defense Threat Reduction Agency. The FY 2010 through FY 2012 Section 801 Waivers directed each DoD component with WFO projects at DOE to maintain funds tracking and to provide monthly obligation reports to DPAP. Instead, DPAP officials relied on DOE officials to track DoD's obligations. We obtained summary funding amounts from DOE accounting officials. A DOE senior financial policy specialist provided totals for DoD funds that DOE obligated in FYs 2010, 2011, and 2012. The DPAP official stated that he was unaware of the total amount of DoD funds that DOE obligated and could not verify that the summary funding amounts provided by DOE were accurate. Specifically, a DOE senior financial policy specialist provided a document showing that DOE obligated approximately \$2.4 billion in DoD funds in FY 2010, exceeding the FY 2010 Section 801 Waiver threshold of \$2.2 billion (Table 2). The DPAP official stated that he was unaware that DoD exceeded the waiver threshold and did not recall DOE officials notifying him of DoD exceeding the waiver threshold.

The DPAP official stated that he was unaware of the total amount of DoD funds that DOE obligated

Table 2. Section 801 Waiver Thresholds Compared to Reported Amounts Obligated

Fiscal Year	Waiver Threshold (in billions)	Reported Amount DOE Obligated (in billions)	Difference (in billions)
2010	\$2.2	\$2.354	\$0.154
2011	2.5	2.355	(0.145)
2012	2.5	2.544	0.044
Total	\$7.2	\$7.253	\$0.053

Note: Amounts are rounded.

The audit team informed the DPAP official on August 9, 2012, that in FY 2011, DOE obligated DoD funds totaling \$2.4 billion, just under the \$2.5 billion waiver threshold, and the official stated that he did not know that the actual funding amount was that close to the threshold. In addition, the DPAP official stated he was unaware of the total DoD funding that DOE obligated in FY 2012 and he asked us to notify him when we received the updated numbers from DOE officials. The Director, DPAP, should establish a quality control process that will enforce the requirement for DoD Components to provide

monthly obligation reports to DPAP and for DPAP officials to maintain this data in an auditable system. In addition, the Director, DPAP, should request that DOE accounting officials provide monthly obligation reports of DoD funds provided and whether DoD is close to exceeding the waiver threshold.

Conclusion

DPAP and USD(C) officials did not have a process in place to determine whether DoD Components complied with the MOA and CAP or the other policies issued for WFO projects and funds provided to DOE. As a result, DPAP and USD(C) officials did not track funds DoD sent to DOE. From FY 2010 through FY 2012, a DOE financial policy specialist indicated that DOE obligated approximately \$7.3 billion in DoD funds, \$53 million more than the amount authorized by the Section 801 Waivers for FY 2010 through FY 2012. Although the Section 801 Waivers require DoD Components to provide DPAP with monthly obligation updates, the DPAP official responsible for collecting these reports did not do so because he did not place a high priority on implementing the MOA or CAP. By implementing the recommendations in this report, DPAP will demonstrate that officials place a high priority on DoD-related WFO projects and funding.

Recommendations, Management Comments, and Our Response

A.1. We recommend that the Director, Defense Procurement and Acquisition Policy:

a. Require DoD Components to verify that DoD customers are receiving and reviewing detailed cost proposals from the Department of Energy.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP officials will include the requirement for DoD Components to verify that DoD customers are receiving and reviewing detailed cost proposals from DOE in an update to DoD's policy memorandum on doing business with DOE. The Director will issue the policy in February 2013.

b. Require DoD Components to perform a review to determine whether DoD contracting officers reviewed funding sent to the Department of Energy in excess of \$100,000.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP officials will include the requirement for DoD Components to perform a review to determine whether DoD contracting officers reviewed funding sent to DOE in excess of \$100,000 in an update to DoD's policy memorandum on doing business with DOE. The Director will issue the policy in February 2013.

c. Coordinate with the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, to determine whether the Invoice Processing Platform meets DoD's needs to obtain required data for tracking DoD-related Work for Others projects. If the Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, determines that the Invoice Processing Platform is inadequate or unavailable for immediate use, they should develop alternatives for gathering data for DoD-related Work for Others projects.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP personnel will coordinate with USD(C) personnel to ensure DoD officials obtain adequate data in a standard format for proper tracking of DoD-related WFO projects. In addition, the Director stated that the USD(C) believes that the Invoice Processing Platform is available for immediate use and contains much of the functionality needed to conduct intra-governmental transactions. The Director stated that DPAP and USD(C) personnel will coordinate to develop alternatives for gathering data in the interim and until it is confirmed that the Invoice Processing Platform can be used. The Director stated that data reporting will commence in March 2013.

d. Clarify policy to specifically require DoD technical project managers assigned to Work for Others projects to meet contracting officer's representatives training requirements.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP officials will include a requirement that DoD technical project managers assigned to WFO projects obtain minimum COR training in a comprehensive update to the policy memorandum on doing business with DOE. The Director will issue the policy in February 2013.

e. Designate personnel to meet at least quarterly with Department of Energy officials to discuss interagency acquisition, terms of the memorandum of agreement, and effectiveness of the corrective action plan and document the results of the meetings.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP officials will specify the details of the requirement for personnel to meet at least quarterly with DOE officials in the revision to the MOA. The Director will issue the MOA in February 2013.

f. Establish a quality control process that will enforce the requirement for DoD Components to provide monthly obligation reports to Defense Procurement and Acquisition Policy and for Defense Procurement and Acquisition Policy to maintain this data so it is auditable.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP officials will include the requirement to establish a quality control process for DoD Components to provide monthly obligation reports to DPAP officials in the update to the policy memorandum on doing business with DOE and the revision of the MOA. The Director will issue the MOA in February 2013.

g. Request that Department of Energy accounting officials provide monthly obligation reports of DoD funds provided and whether DoD is close to exceeding the waiver threshold.

DPAP Comments

The Director, DPAP, agreed and stated that DPAP officials will include the requirement for DOE accounting officials to provide monthly obligation reports for DoD funds provided and whether DoD is close to exceeding the waiver threshold in the revision to the MOA as a requirement to be executed by DOE. The Director will issue the MOA in February 2013.

Our Response

Comments from the Director, DPAP, were responsive and met the intent of the recommendations. No further comments are required.

A.2. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD:

a. Require DoD Components providing funds to the Department of Energy to use a standard funding document number where the first six positions are the DoD activity address code for the funding agency.

USD(C) Comments

The Deputy Chief Financial Officer responded on behalf of the USD(C). The Deputy agreed and stated that USD(C) officials plan to find a better way to determine compliance with financial and acquisition policies. The Deputy stated that the USD(C) plans to develop a standard process, data set, and solution for capturing intra-governmental transactions in the long term. In addition, the Deputy stated that the USD(C) can determine during the Invoice Processing Platform pilot phase whether using a uniform military interdepartmental purchase request format with the DoD activity address code for the funding agency in the first six positions is required to make the long term intra-governmental transactions solution work.

b. Require DoD Components to provide the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, with copies of all funding documents sent to the Department of Energy.

USD(C) Comments

The Deputy partially agreed and stated that USD(C) officials agree with the intent of the recommendation. The Deputy stated that DoD personnel can work toward creating a single repository in the Invoice Processing Platform rather than sending every funding document to the USD(C). The Deputy stated that until the Invoice Processing Platform is fully developed, the USD(C) will develop an interim solution for the single repository such as using the Electronic Document Access system by the end of FY 2013.

Our Response

Comments from the Deputy were responsive and met the intent of the recommendations. No further comments are required.

Finding B. Air Force Potential Antideficiency Act Violation Still Needs to Be Reviewed

Air Force officials potentially violated the ADA by providing funds to NNSA which augmented NNSA's funds. This resulted in a potential ADA violation of \$100,000. DoD OIG reported on this potential ADA violation in Report No. D-2011-021.⁸ Air Force and USD(C) officials did not perform a review of the potential ADA violation, as recommended in Report No. D-2011-021 and required by DoD Regulation 7000.14-R, DoD FMR, volume 14, chapter 3, "Preliminary Reviews of Potential Violations."

Air Force Raft Scoring Project With NNSA

On September 2, 2008, the Air Force 576 FLTS/TMO,⁹ Air Force Space Command, Vandenberg Air Force Base, California, issued military interdepartmental purchase request F4DEB18246G001 to provide \$100,000 to Lawrence Livermore National Laboratory. The funds were for a WFO project for Lawrence Livermore National Laboratory to perform raft scoring¹⁰ downrange support for a test launch of an intercontinental ballistic missile in support of the joint testing and assessment of the nuclear weapons stockpile program. Lawrence Livermore National Laboratory personnel accepted military interdepartmental purchase request F4DEB18246G001 on September 5, 2008.

Potential Augmentation of Funds

The audit team determined that a potential ADA violation involving the augmentation of funds existed because NNSA supplemented its appropriations by using Air Force funds without specific statutory authority. According to 31 U.S.C., Section 1341a (1)(A)—a statute included under the ADA:

[a]n officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation . . .

In this situation, the Air Force paid for work that, according to an Air Force official, the Air Force had not paid for in the past. After reviewing a February 16, 2001, memorandum of understanding regarding the joint testing and assessment of the nuclear weapons stockpile between NNSA and the Air Force, we were unable to identify who was responsible for paying for the work. While it was not clear who was responsible for paying for the work, it appears that the Air Force augmented NNSA funds.

⁸ Report No. D-2011-021 also reported a potential bona fide needs rule violation for this Air Force project. Air Force officials performed a review of that potential violation and took action to correct the potential violation.

⁹ 576 Flight Test Squadron Test Management Operations Program (FLTS/TMO)

¹⁰ Raft scoring refers to rafts with on-board tracking instruments used to score the accuracy of the re-entry vehicle when it strikes the water.

Prior Recommendation and DoD FMR Requirement Not Followed

Air Force personnel did not address the potential augmentation of funds in their analysis of another potential ADA violation discussed in Report No. D-2011-021, which recommended that the USD(C) instruct the Air Force to initiate a preliminary review of potential ADA violations.

DoD FMR, volume 14, chapter 3, outlines the requirements for reviewing and reporting potential ADA violations. Specifically, it requires DoD officials to evaluate potential ADA violations for validity and completeness and to determine whether a potential violation occurred.

USD(C) personnel could not provide documentation that showed that USD(C) Office of General Counsel or Air Force personnel performed a review of the augmentation of funds, as required by DoD FMR, volume 14, chapter 3. The USD(C) should instruct the Air Force to conduct a preliminary review of the potential augmentation of funds.

Recommendation, Management Comment, and Our Response

B. We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, instruct the Air Force to initiate a preliminary review and adjudicate the potential Antideficiency Act violation.

USD(C) Comments

The Deputy Chief Financial Officer responded on behalf of the USD(C). The Deputy partially agreed and stated that the Air Force Deputy Assistant Secretary for Financial Operations initiated a preliminary ADA investigation on January 8, 2013. However, the Deputy states that the recommendation should be redirected to the Deputy Assistant Secretary for the Air Force for Financial Operations.

Our Response

Comments from the Deputy were responsive and met the intent of the recommendation because USD(C) officials instructed Air Force officials to initiate a preliminary review of the potential ADA violation. The Director, Accounting and Reporting, Financial Operations, officially initiated the preliminary ADA review P13-02 on January 14, 2013 with the memorandum "Request for a Preliminary Antideficiency Act (ADA) Review to Determine Whether a Potential ADA Violation Occurred." This ADA was a carryover from DoD OIG Report No. D-2011-021, "More DoD Oversight Needed for Purchases Made Through the Department of Energy," December 3, 2010, and we referred the recommendation to USD(C) officials in accordance with the 2008 DoD FMR. No further comments are required.

Appendix A. Scope and Methodology

We conducted this performance audit from March 2012 through December 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We reviewed documentation dated May 1994 through October 2012.

Compliance With MOA and CAP

This audit was a follow-on audit to Report No. D-2011-021. The follow-on audit is part of a series of congressionally mandated audits required by Public Law 110-417, “National Defense Authorization Act for Fiscal Year 2009,” section 804 “Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies,” October 14, 2008. We met and interviewed personnel at DPAP, USD(C), and DOE. We determined whether DoD personnel complied with the roles and responsibilities outlined in the MOA that DoD and DOE officials jointly developed to define the roles and responsibilities for DOE work performed on behalf of DoD customers. We reviewed the MOA and CAP to identify the responsibilities of DoD officials and followed-up with the appropriate personnel to determine whether they made progress in executing the requirements of the MOA and CAP. We reviewed the United States Code, public laws, the FAR, DoD policy memoranda, DoD instructions, and the DoD Financial Management Regulation for criteria relevant to our audit. We also reviewed memoranda from the Office of Management and Budget – Office of Federal Procurement Policy; DOE; the Office of the Deputy Secretary of Defense; and the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Attempts at Obtaining an Audit Universe

DPAP, USD(C), and DOE officials could not provide us a complete list of DoD-related WFO projects—projects either wholly or partially funded by DoD—to determine DoD component compliance with the MOA, CAP, and other DoD policies. In addition, the audit team tried to obtain an audit universe from Intragovernmental Payment and Collection records provided by the Defense Finance and Accounting Service and FPDS. These sources could not provide a complete list of DoD-related WFO projects to the level of detail required by the Federal Funding Accountability and Transparency Act of 2006 or FAR subpart 4.6.

Follow-up for DoD OIG Report No. D-2011-021

We reviewed recommendations and management comments from DoD OIG Report No. D-2011-021, to identify managements’ planned actions and the status of the actions. We obtained and reviewed the case file for DoD OIG Report No. D-2011-021 from the DoD OIG Quality Assurance and Report Followup Division. We followed up with USD(AT&L), USD(C), Army, Navy, Air Force, and Defense Threat Reduction Agency officials. We collected documentation to identify management actions taken and

the status of each recommendation. A summary of each recommendation and its status is in Appendix E.

Use of Computer-Processed Data

We did not use computer-processed data to support the audit findings. However, we used data from the Intragovernmental Payment and Collection system and FPDS in an attempt to identify an audit universe.

We did not test the reliability of the Intragovernmental Payment and Collection system data because we determined that the data lacked sufficient detail to identify an audit universe. To test the reliability of FPDS data, we compared the data to the summary data we obtained from a DOE financial policy official. The FPDS data did not identify approximately 95 percent of DoD funds provided to DOE in FY 2011. Therefore, we determined the FPDS data were not sufficiently reliable to identify an audit universe.

Appendix B. Prior Coverage

During the last 5 years, the Government Accountability Office (GAO), DoD OIG, Department of the Army, and DOE OIG issued 10 reports discussing interagency acquisitions. Unrestricted GAO reports can be accessed over the Internet at <http://www.gao.gov>. Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/audit/reports>. Unrestricted Army reports can be accessed from .mil and gao.gov domains over the Internet at <https://www.aaa.army.mil/>. Unrestricted DOE OIG reports can be accessed at <http://www.ig.energy.gov/reports.htm>.

GAO

GAO Report No. GAO-11-394T, “High-Risk Series: An Update,” February 17, 2011

GAO Report No. GAO-10-862T, “Contracting Strategies: Better Data and Management Needed to Leverage Value of Interagency and Enterprisewide Contracts,” June 30, 2010

GAO Report No. GAO-10-367, “Contracting Strategies: Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprisewide Contracts,” April 29, 2010

DoD OIG

DoD OIG Report No. DODIG-2012-072 and Department of Interior IG Report No. ER-IN-NBC-0001-2011, “A Joint Audit by the Inspectors General of the U.S. Department of the Interior and the U.S. Department of Defense: DoD’s FY 2010 Purchases Made Through the Department of the Interior,” April 13, 2012

DoD OIG Report No. D-2011-021, “More DoD Oversight Needed for Purchases Made Through the Department of Energy,” December 3, 2010

DoD OIG Report No. D-2011-018, “FY 2008 and FY 2009 DoD Purchases Made Through the General Services Administration,” November 30, 2010

DoD OIG Report No. D-2009-064, “FY 2007 DoD Purchases Made Through the National Institutes of Health,” March 24, 2009

DoD OIG Report No. D-2009-043, “FY 2007 DoD Purchases Made Through the Department of Veterans Affairs,” January 21, 2009

Army

U.S. Army Audit Agency Report No. A-2009-0016-FFH, “Acquisitions Made Using Military Interdepartmental Purchase Requests, U.S. Army Medical Command,” November 17, 2008

DOE OIG

DOE OIG Report No. DOE/IG-0829, “Work for Others Performed by the Department of Energy for the Department of Defense,” October 26, 2009

Appendix C. MOA and CAP

**MEMORANDUM OF AGREEMENT (MOA)
BETWEEN THE
DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF ENERGY
GOVERNING DEPARTMENT OF DEFENSE FUNDED WORK PERFORMED AT THE
DEPARTMENT OF ENERGY LABORATORIES AND FACILITIES**

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to define the working relationship between the Department of Defense (DOD) and the Department of Energy (DOE) for the conduct of work undertaken in support of and directly funded by the DOD under the DOE Work for Others (WFO) program.

II. BACKGROUND

A large percentage of the U.S. research support relating to the defense sciences comes from funding originating within the DOD and the effectiveness of DOD's system for supporting this research and development is to a great degree the basis for their preeminence in related scientific areas. For many years DOE laboratories and facilities, through the DOE Work for Others (WFO) program, have undertaken research and development projects performed for and funded by the DOD. These facilities are managed and operated for DOE by universities, industrial concerns, and non-profit organizations under terms of individual contracts, as defined in Federal Acquisition Regulation (FAR) Subpart 17.6. All DOD funded work at the DOE laboratories and facilities will be subject to the terms and conditions of these contracts.

The mechanism used by DOD to place work at a DOE laboratory or facility is through an Interagency Agreement (IAA) and is managed under a program called Work for Others (WFO). The DOE WFO program requirements and practices are established to ensure compliance with Federal laws and regulations, and are promulgated in the Department of Energy Acquisition Regulations (DEAR) and further defined in DOE Order 481.1C, WORK FOR OTHERS (NON-DEPARTMENT OF ENERGY FUNDED WORK).

III. POLICY

The ability of DOD to have access to the unique facilities and special expertise of the DOE laboratories and facilities greatly assists DOD in meeting essential mission requirements and specific program goals and objectives. In addition, DOD WFO funding is vital to and clearly compliments and enhances the Department's own defense related and supporting science research programs at DOE laboratories and facilities.

This MOA is being established to promote and protect this longstanding, productive, and mutually beneficial relationship between DOD and DOE which has allowed each agency to more effectively meet their agency specific and national research mission and objectives.

Appendix C. MOA and CAP (cont'd)

IV. ADMINISTRATION

Each agency shall administer all WFO projects performed at the DOE laboratories and facilities directly funded by the DOD in accordance with the applicable statutes and regulations, and their standard policies and procedures, except as such policies and procedures may be amended by the provisions set forth below:

A. DOD will provide to DOE a copy of their signed Economy Act Determinations and Findings (D&F) or a Best Interest Determination for the specific WFO project. This will become a permanent part of the DOE project file.

B. For each WFO project, DOD will define any special or unique information requirements e.g., reporting. DOE will include associated costs in the DOE cost estimate for the requirements.

C. DOE will ensure that adequate pricing visibility is provided to support DOD's assessment of cost/price reasonableness and apply standard laboratory/facility rates used in pricing both DOE and non-DOE work. DOE will provide a breakout of direct costs while indirect costs will be provided at the summary dollar level only. The following is general list of standard cost elements to be utilized when providing DOD a WFO project proposal/cost estimate. While the cost estimate formats may vary, this level of cost detail is expected in order to provide DOD with sufficient information to ensure DOD has a thorough understanding of the proposed costs and that adequate funding has been secured for the project.

Cost Data Elements for each Project

Labor (including labor hours and skill mix)

Materials (including any equipment)

Travel

Other Direct Costs

Laboratory Directed Research and Development (if applicable)

Overhead

Federal Administrative Charge (if applicable)

Using this information, DOD will assess each project's cost proposal, and will ensure each DOD project file contains documentation indicating completion of the DOD assessment of cost/price reasonableness. DOD funding of a project will represent acceptance of cost/price reasonableness of a WFO project.

D. DOD recognizes that DOE operates on a fully reimbursable basis, that standard laboratory/facility rates are not negotiable, and that estimates are subject to change. Changes to cost estimates will be reported and managed through project reporting requirements established for each project by the DOD technical project manager.

Appendix C. MOA and CAP (cont'd)

E. DOD and DOE agree that oversight roles and requirements will be defined for each WFO project. At a minimum, DOD is responsible for technical project management and will identify in the interagency agreement a technical project manager/COR for each project. This DOD official shall monitor technical, cost, and schedule performance of the project, and notify the DOE contracting officer of any questioned costs or performance issues. DOD will provide written notification of any changes to project specific designated technical project managers. DOE is responsible for monitoring the performance of the contractor as a whole, and for issue resolution, as needed. This will be accomplished by the DOE Contracting Officer responsible for the DOE laboratory/facility.

F. DOD officials will have access to DOE laboratories and facilities as necessary to review and monitor project scope, scheduling, and funding. DOD will request approval for laboratory/facility access from the WFO project Principal Investigator (PI). The WFO PI shall notify the DOE contracting officer of pending on-site visits.

G. DOE and DOD will jointly develop standardized reporting requirements outside of FPDS-NG and DOE will commence standardized quarterly data reporting to DOD in support of Technical Project Manager functions.

H. DOD and DOE will conduct regularly scheduled meetings at the action officer and senior level to ensure emerging IA issues are addressed.

V. FUNDING

A. The details of the levels and support to be furnished by DOD will be specified in each WFO agreement. This MOA shall not be used or construed to obligate or commit funds or serve as the basis for the transfer of funds. All DOE provided cost data shall be considered business sensitive. DOE will be responsible for marking any other data as such when appropriate.

B. Project-specific information will normally be provided by the individual project Principal Investigators (PI). For more global information, involving multiple DOE facilities, DOD should make such a request through the DOE or NNSA Senior Procurement Executive, as appropriate.

C. In accordance with DOE policy, DOE will exercise funds control at the WFO project level. Upon notification by a DOD technical project manager, DOE will ensure funds provided by DOD are de-obligated and returned to DOD in a timely manner.

VI. AUDIT

In accordance with standard DOE practice, the DOE IG will be responsible for DOE contract audits related to DOD work at the DOE laboratories/facilities, and any DOE IG audit findings will be resolved by DOE with the necessary coordination with DOD. Upon request by DOD, in coordination with the DOE-IG, the DOD-IG will be permitted to access DOE laboratories/facilities to evaluate DOD projects.

Appendix C. MOA and CAP (cont'd)

VII. RESPONSIBILITIES

As partners, DOD and DOE recognize the need to collaborate on Interagency Acquisition requirements. As individual organizations, each has specific responsibilities in all parts of this plan to ensure that all acquisitions are compliant with statute, regulation and applicable policy. Collectively, the two organizations have the ability and expertise to ensure that all contracting actions are done properly, in compliance with all applicable law, regulation and policy and are conducted in the best interests of the taxpayers. DOE values greatly the support that it provides to DOD and the tremendous additional leverage that DOD requirements add to DOE capabilities. DOD is committed to sound acquisition planning and to providing DOE with clear, specific, definite and certain directions regarding its requirements.

Attached is a Corrective Action Plan that more specifically addresses DOD's and DOE's respective roles and responsibilities in the process. DOD and DOE will collaborate on all action plan items. It is expected that this chart will be modified and updated over time but its changes do not impact the general agreement herein.

Both DOD and DOE will designate an office/division to function as the agency's point of contact to resolve particular problems or policy matters pertaining to DOD WFO at the DOE laboratories and facilities. These points of contact will consult with and obtain concurrence of affected elements within their organizations in accordance with internal requirements and responsibilities. DOD and DOE have designated the following office/division to serve this purpose:

DOD:

Office of the Under Secretary of Defense
Acquisition, Technology and Logistics
Defense Procurement and
Acquisition Policy/Contract Policy and
International Contracting

DOE:

Office of Management
Office of Procurement and Assistance
Management

NNSA:

National Nuclear Security Administration
Office of Acquisition and Supply
Management

Appendix C. MOA and CAP (cont'd)

VII. AUTHORITY

This MOA is carried out within the statutory guidelines in the Atomic Energy Act of 1954, as amended, the Economy Act, as amended, and related statutes.


VIII. EFFECTIVE DATE

This MOA shall become effective upon the latter date of the signature of the Director, Defense Procurement and Acquisition Policy, the DOE Senior Procurement Executive of the Office of Procurement Assistance and Management, and the NNSA Senior Procurement Executive of the Office of Acquisition and Supply Management. It shall remain in effect until amended or terminated by either party.

IX. AMENDMENTS

This MOA may be modified or amended only by mutual written agreement between DOD and DOE.

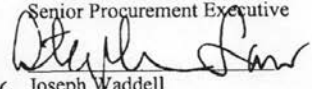
Appendix C. MOA and CAP (cont'd)


Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

9/17/2010
Date


Patrick M. Ferraro
Acting Director
Office of Procurement and
Assistance Management
Senior Procurement Executive

9-16-10
Date

for 
Joseph Waddell
Director
Office of Acquisition and Supply Management
National Nuclear Security Administration
Senior Procurement Executive

9-16-10
Date

Appendix C. MOA and CAP (cont'd)

Attachment A: Corrective Action Plan

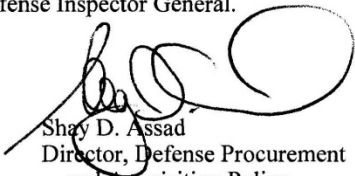
Action Items	Planned Execution Date
The Department of Energy (DOE) and the Department of Defense (DOD) will execute a Memorandum of Agreement (MOA) that among other actions, establishes roles and responsibilities when the DOD accesses DOE-owned research, development and production facilities through Interagency Agreements.	September 2010
The Director, Defense Procurement and Acquisition Policy will issue a comprehensive policy memorandum to require a DOD Contracting Officer to review any funding increment in excess of \$100,000 to be sent to the DOE for performance by a DOE laboratory or facility.	September 2010
DOE and DOD will jointly develop standardized reporting requirements outside of FPDS-NG and DOE will commence standardized quarterly data reporting to DOD in support of Technical Project Manager functions as defined in the MOA.	Reporting requirements standardized: November 2010. Reporting commences: May 2011
DOE and DOD will collaborate on all emerging Interagency Acquisition issues and meet, at the Action Officer level, each quarter to evaluate and address the terms of the MOA and the effectiveness and currency of the Corrective Action Plan. Additional agency meetings will be held at the request of either agency. Senior leaders to meet semi-annually.	Commence September 2010
DOE and DOD will establish standardized costs elements to ensure sufficient pricing information is provided to DOD for review/analysis prior to sending funds to DOE. DOE will disseminate the standard elements to all DOE laboratories and other facilities for use when providing DOD with costs estimates.	September 2010
DOD will issue a policy memo that requires any technical project manager performing oversight, including invoice review, on a DOD requirement being performed at a DOE laboratory or facility to meet stated Contracting Officer Representative (COR) training requirements excluding contingency contracting requirements.	September 2010
DOD and DOE will assess whether or not "directed purchases", as recommended in DODIG audit Report No. 2009-D000CF, is desirable, feasible and implementable. DOD and DOE will report their findings to the DODIG by March 31, 2011.	March 31, 2011

Appendix D. Section 801 Waivers

NOV 23 2009

Determination in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008) by the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD(AT&L)] as Delegated to the Director, Defense Procurement and Acquisition Policy, to Continue to Procure Property and Services Through the Department of Energy (DoE) in support of Department of Defense (DoD) components.


- Public Law 110-181, section 801, “Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies,” at subsection (b)(1) allows an acquisition official of the Department of Defense to place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold (typically \$100,000) through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- The Department of Defense Inspector General (DoDIG) recently expressed concerns regarding the Department of Energy (DoE) procedures when contracting on behalf of the DoD. DoE provided information in response to DoDIG concerns and is cooperating with the on-going audit. Although DoE has provided DoD a certification for FY 2010, in accordance with the requirements of section 801 (b)(1) of the NDAA 2008, it is my determination that the certification is not fully compliant with statutory requirements. Notwithstanding, the Department needs to continue to procure supplies and services through DoE. Therefore, pending a final written audit recommendation from the DoD Inspector General, it is my determination that it is necessary and in the interest of the DoD to continue to procure property and services through the DoE. I authorize all DoD components to utilize the assisted acquisition services of the DoE for the procurement of essential mission related requirements.
- This determination covers DoD requirements in fiscal year 2010 to be placed through March 31, 2010 up to a total amount of \$900 million. Each component utilizing the assisted acquisition services of DoE is directed to maintain sufficient tracking records toward the authorized ceiling and to provide monthly obligation reports to the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. In addition, each component is required to ensure that all affected Department of Defense contract files are documented and available for review or audit by the Department of Defense Inspector General.


Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Appendix D. Section 801 Waivers (cont'd)

Amendment to Determination dated November 23, 2009, in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008) by the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD(AT&L)] as Delegated to the Director, Defense Procurement and Acquisition Policy, to Continue to Procure Property and Services Through the Department of Energy (DoE) in support of Department of Defense (DoD) components.

- Public Law 110-181, section 801, "Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies," at subsection (b)(1) allows an acquisition official of the Department of Defense to place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold (typically \$100,000) through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- The Department of Defense Inspector General (DoDIG) recently provided me an interim verbal briefing on their findings of their audit conducted at multiple DoE sites. Preliminary findings provided by the DoDIG do not warrant limiting DoD's use of DoE support. Based on the requests of the components the Department needs to continue to procure supplies and services through DoE. Therefore, pending the final written audit recommendation from the DoD Inspector General, it is my determination that it is necessary and in the interest of the DoD to continue to procure property and services through the DoE. I authorize all DoD Components to utilize the assisted acquisition services and or direct support of the DoE for the procurement of essential mission related requirements only.
- This determination covers DoD requirements in fiscal year 2010 to be placed through September 30, 2010, up to a total amount of \$2.2B. Each component utilizing the assisted acquisition services or direct support of DoE is directed to maintain sufficient tracking records of amounts provided to DoE and provide them on a monthly basis to the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. In addition, each component is required to ensure that all affected Department of Defense contract files are documented and available for review or audit by the Department of Defense Inspector General.

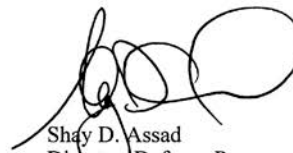
 3/30/2010
Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Appendix D. Section 801 Waivers (cont'd)

SEP 28 2010

Determination in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008), as amended, by the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD(AT&L)] as Delegated to the Director, Defense Procurement and Acquisition Policy, to Continue to Procure Property and Services Through the Department of Energy (DoE) in support of Department of Defense (DoD) Components for Fiscal Year 2011.

- Public Law 110-181, section 801, "Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies," at subsection (b)(1) allows an acquisition official of the Department of Defense to place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold (typically \$100,000) through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- The Department of Defense Inspector General (DoDIG) recently provided the Department a draft audit of their audit conducted at multiple Department of Energy (DoE) laboratories and other locations. Preliminary findings do not warrant limiting DoD's use of DoE support. The Department of Energy has not certified in accordance with section 801 requirements. However, based on the requests of the components the Department needs to continue to procure supplies and services through DoE. Therefore, it is my determination that it is necessary and in the interest of the Department to continue to procure property and services through DoE. I authorize all DoD components to utilize the services of DoE for the procurement of essential mission related requirements only.
- This determination is valid for DoD requirements for fiscal year 2011, executed on behalf of DoD by DoE, up to a total amount of \$2.5B. Each component utilizing the services of DoE is directed to comply with all applicable statutory, regulatory and policy requirements, including the policy of September 24, 2010 (attached), to maintain sufficient tracking records toward the authorized ceiling, and to provide monthly obligation reports to the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. In addition, each component is required to ensure that all affected Department of Defense contract files are documented and available for review or audit by the Department of Defense Inspector General.



Shay D. Assad
Director, Defense Procurement
and Acquisition Policy


Attachment:
As stated

Appendix D. Section 801 Waivers (cont'd)

SEP 30 2011

Determination in Accordance with Section 801 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008), as amended, by the Under Secretary of Defense for Acquisition, Technology, and Logistics [USD(AT&L)] as Delegated to the Director, Defense Procurement and Acquisition Policy, to Continue to Procure Property and Services Through the Department of Energy (DoE) in support of Department of Defense (DoD) Components for Fiscal Year 2012.

- Public Law 110-181, section 801, "Internal Controls for Procurements on Behalf of the Department of Defense by Certain Non-Defense Agencies," at subsection (b)(1) allows an acquisition official of the Department of Defense to place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold (typically \$100,000) through a non-defense agency only if the head of the non-defense agency has certified that the agency will comply with defense procurement requirements for the fiscal year.
- The Department of Defense Inspector General (DoDIG) recently conducted an audit at multiple Department of Energy (DoE) laboratories and other locations. DoDIG findings do not warrant limiting DoD's use of DoE support. The Department of Energy has not certified in accordance with section 801 requirements. Based on the requests of the components, the Department needs to continue to procure supplies and services through DoE. Therefore, it is my determination that it is necessary and in the interest of the Department to continue to procure property and services through DoE. I authorize all DoD components to utilize the services of DoE for the procurement of essential mission related requirements only.
- This determination is valid for DoD requirements for fiscal year 2012 to be placed through September 30, 2012, executed on behalf of DoD by DoE, up to a total amount of \$2.5B annually. Each component utilizing the assisted acquisition services of DoE is directed to maintain sufficient tracking records of amounts provided to DoE, and to provide them on a monthly basis to the Deputy Director, Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. In addition, each component is required to ensure that all affected Department of Defense contract files are documented and available for review or audit by the Department of Defense Inspector General.


Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Appendix E. Status of Recommendations From DoD OIG Report No. D-2011-021

Recommendation	Management Response to Report	Management Actions Taken
Recommendation A.1. USD(AT&L)		
<p>The USD(AT&L) obtain certification from DOE regarding Section 801 requirements or work with DOE to develop alternative plans to make direct purchases from NNSA sites. Use of direct purchases would alleviate most of the problems identified in this report. If DOE certifies that it will comply with Defense procurement requirements, DoD needs to ensure that:</p> <ul style="list-style-type: none"> a. detailed DoD procurement data related to individual WFO projects are entered into FPDS; b. price reasonableness determinations are made for all WFO projects; c. CORs are designated for individual WFO projects; and d. individuals are designated to review contractor invoices. 	<p>The Director, DPAP, provided comments on behalf of the USD(AT&L). The Director stated that DOE and DoD will conduct a study by January 2011 to determine whether the direct purchase approach is feasible. The Director also provided an MOA that addresses Recommendation A.1 (a-d) and DPAP’s Memorandum, “DoD-Wide Policy for Using the Department of Energy’s (DoE’s) Work for Others Program (WFO) to Access DoD-Owned Research, Development and Production Facilities through Interagency Agreements (IAs) in Fiscal Year 2011,” September 24, 2010, that implemented Recommendation A.1 (b-d).</p>	<p>DPAP provided the results of the study. The Director, DPAP, concluded that the direct purchase approach is not appropriate.</p> <p>The MOA and DPAP Policy incorporated the recommended actions for USD(AT&L). On September 30, 2011, the Director, DPAP, reissued the September 24, 2010, policy. The policy is in effect until rescinded.</p>

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* A list of acronyms used in Appendix E is at the end of the table.

Appendix E. Status of Recommendations From DoD OIG Report No. D-2011-021 (cont'd)

Recommendation	Management Response to Report	Management Actions Taken
Recommendation A.2. USD(AT&L)		
<p>The USD(AT&L) establish a requirement that DoD contracting officers review all Economy Act WFO orders greater than \$500,000 before sending the order to the funds certifier or issuing the Military Interdepartmental Purchase Request to DOE if DOE certifies compliance with Section 801 requirements and continues to provide assisted acquisition support.</p>	<p>The Director, DPAP, provided comments on behalf of the USD(AT&L). On September 24, 2010, the Director issued a memorandum to DoD Components requiring a contracting officer to review any WFO project in excess of \$100,000 before DoD sends funds to DOE, regardless of whether DOE certifies compliance with Section 801 requirements.</p>	<p>On September 30, 2011, the Director reissued the policy. The policy is in effect until rescinded.</p>
Recommendation A.3. Department of the Army, Navy, and Air Force and Director, DTRA		
<p>Acquisition Executives for the Army make DoD requesting activities aware of their responsibilities for obtaining and reviewing detailed cost information for individual WFO projects including certified cost or pricing data, when applicable.</p>	<p>On October 13, 2010, the Deputy Assistant Secretary of the Army (Procurement), stated that his office issued a Principal Assistant Responsible for Contracting/Policy Chief Alert directing contracting officers to assess the reasonableness of proposed cost/price information for individual WFO projects. He also stated that the Alert included the Director, DPAP's September 24, 2010, memorandum imposing policy for interagency agreements with DOE and the FY 2011 Section 801 Waiver.</p>	<p>On May, 17, 2012, an Army official provided documentation that showed the Deputy Assistant Secretary of the Army (Procurement) issued the policy alert. The Deputy Assistant Secretary of the Army (Procurement) issued the alert on October 6, 2010. The Deputy Assistant Secretary of the Army (Procurement) attached the DPAP memorandum, "DoD-Wide Policy for Using the Department of Energy's (DoE's) Work for Others (WFO) to Access DoE-Owned Research, Development and Production Facilities through Interagency Agreements (IA's) in Fiscal Year 2011," September 24, 2010, and the FY 2011 Section 801 Waiver.</p>

* A list of acronyms used in Appendix E is at the end of the table.

Appendix E. Status of Recommendations From DoD OIG Report No. D-2011-021 (cont'd)

Recommendation	Management Response to Report	Management Actions Taken
Recommendation A.3. Department of the Army, Navy, and Air Force and Director, DTRA (cont'd)		
<p>Acquisition Executives for the Department of the Navy make DoD requesting activities aware of their responsibilities for obtaining and reviewing detailed cost information for individual WFO projects including certified cost or pricing data, when applicable.</p>	<p>The Director, Program Analysis and Business Transformation, issued comments on behalf of the Deputy Assistant Secretary of the Navy (Acquisition & Logistics Management). The Director stated that the responsibility to obtain and review certified cost or pricing data and determine fair and reasonable prices lies with the DOE contracting officer. The Director agreed that the basis for WFO cost estimates needs to be provided to DoD customers.</p>	<p>On June 25, 2012, a Navy official provided documentation that showed an OASN(RD&A) official notified Navy activities of the requirement for DoD contracting officers to review WFO projects in excess of \$100,000. The OASN(RD&A) issued the notification on October 1, 2010.</p>
<p>Acquisition Executives for the Air Force make DoD requesting activities aware of their responsibilities for obtaining and reviewing detailed cost information for individual WFO projects including certified cost or pricing data, when applicable.</p>	<p>On April 18, 2011, the Associate Deputy Assistant Secretary (Contracting), Assistant Secretary (Acquisition) for the Air Force, stated that she would request that the Deputy Assistant Secretary for Financial Operations update Air Force Instruction 65-116 to instruct requiring activities to participate in technical evaluation of offers and review related cost information when appropriate and when required by the contracting officer.</p>	<p>Air Force personnel sent out a draft of Air Force Instruction 65-116 for review and comment on September 19, 2012. Comments were due on October 15, 2012. Air Force personnel extended the due date for comments into November. As of January 23, 2013, Air Force personnel were finalizing the draft instruction and preparing to forward it to the Air Force publications group for coordination and administrative reviews.</p>

* A list of acronyms used in Appendix E is at the end of the table.

Appendix E. Status of Recommendations From DoD OIG Report No. D-2011-021 (cont'd)

Recommendation	Management Response to Report	Management Actions Taken
Recommendation A.3. Department of the Army, Navy, and Air Force and Director, DTRA (cont'd)		
<p>The Director, DTRA, make DoD requesting activities aware of their responsibilities for obtaining and reviewing detailed cost information for individual WFO projects including certified cost or pricing data, when applicable.</p>	<p>The Director stated that DTRA officials would develop a specific management control plan to continue enforcing best practices, as well as request that DOE laboratories consistently provide detailed cost information that includes certified cost or pricing data.</p>	<p>On July 24, 2012, we received a Director, DTRA, memorandum dated July 13, 2012, that included a list of corrective actions taken.</p>
Recommendation B.1. USD(AT&L)		
<p>The USD(AT&L) initiate changes to the FAR and DFARS or both as appropriate to include guidance on the financing of all types of contracts with multiple-year appropriations. This should be coordinated with the DoD Comptroller's changes to the DoD FMR.</p>	<p>The Director, DPAP, responded on behalf of the USD(AT&L). The Director stated he will review the FAR and DFARS in coordination with the DoD Comptroller to determine whether changes are necessary.</p>	<p>In an April 16, 2012, memorandum, the Director, DPAP, stated that the Department is still assessing the potential inconsistencies between the FAR, DFARS, and DoD FMR. The Director expected to address the need for changes by the end of calendar year 2012.</p>
Recommendation B.2. USD(C)		
<p>a. The USD(C) instruct the Services and DTRA to initiate preliminary reviews of the potential ADA violations we identified and to adjudicate each potential ADA violation.</p>	<p>The Deputy Chief Financial Officer provided comments on behalf of the USD(C). The Deputy Chief Financial Officer stated that the USD(C) requested preliminary reviews from the services and DTRA for the identified potential ADA violations.</p>	<p>For all of the potential ADA violations, the Comptroller determined that no violation occurred. For four of the six WFO projects, DoD realigned and deobligated funds to avoid violations. However, for one of the four projects where DoD realigned funds, the Comptroller did not document a review of the augmentation of funds issue as identified in Finding B of this report.</p>

* A list of acronyms used in Appendix E is at the end of the table.

Appendix E. Status of Recommendations From DoD OIG Report No. D-2011-021 (cont'd)

Recommendation	Management Response to Draft Report	Management Actions Taken
Recommendation B.2. USD(C) (cont'd)		
<p>b. The USD(C) perform additional reviews of DoD funding documents related to WFO projects to determine the magnitude of the potential funding problems we identified and take appropriate actions to prevent these issues from occurring in the future.</p>	<p>The Deputy Chief Financial Officer provided comments on behalf of the USD(C). The Deputy Chief Financial Officer stated that the USD(C) will request information on DoD funding documents from DOE. Sufficient details would be requested to determine the extent of the funding problems.</p>	<p>USD(C) personnel did not perform a review of DoD funding documents sent to DOE because USD(C) personnel did not receive the appropriate funding information from DOE, and, as of September 20, 2012, DoD had no process for obtaining data internally.</p>
<p>c. The USD(C) update guidance in the DoD FMR on how to fund severable and nonseverable contracts when using multiple-year appropriations, in particular, those using RDT&E funds.</p>	<p>The Deputy Chief Financial Officer provided comments on behalf of the USD(C). The Deputy Chief Financial Officer stated that USD(C) officials would update the DoD FMR for clarity.</p>	<p>In March 2012, USD(C) officials updated volume 11A, chapter 3, "Economy Act Orders," of the DoD FMR.</p>

* A list of acronyms used in Appendix E is at the end of the table.

Appendix E. Status of Recommendations From DoD OIG Report No. D-2011-021 (cont'd)

Recommendation	Management Response to Draft Report	Management Actions Taken
Recommendation B.2. USD(C) (cont'd)		
<p>d. The USD(C) require financial personnel to receive training that focuses on the use of RDT&E funds. The training should emphasize the bona fide needs rule and potential ADA violations.</p>	<p>The Deputy Chief Financial Officer provided comments on behalf of the USD(C). The Deputy Chief Financial Officer stated that rather than proposing training solely on the use of RDT&E funds, USD(C) officials will work on updating the widely available training that already exists to highlight the planned changes of the DoD FMR as described in Recommendation B.2.c.</p>	<p>USD(C) officials changed the frequency of the fiscal law training requirement from every 5 years to every 3 years.</p>

- ADA Antideficiency Act
- COR Contracting Officer's Representative
- DFARS Defense Federal Acquisition Regulation Supplement
- DoD FMR DoD Financial Management Regulation
- DOE Department of Energy
- DPAP Defense Procurement and Acquisition Policy
- DTRA Defense Threat Reduction Agency
- FAR Federal Acquisition Regulation
- MOA Memorandum of Agreement
- NNSA National Nuclear Security Administration
- OASN(RD&A) Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition)
- RDT&E Research, Development, Test, and Evaluation
- USD(AT&L) Under Secretary of Defense for Acquisition, Technology, and Logistics
- USD(C) Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD
- WFO Work For Others

Defense Procurement and Acquisition Policy Comments



OFFICE OF THE UNDER SECRETARY OF DEFENSE
3060 DEFENSE PENTAGON
WASHINGTON, DC 20301-3060

JAN 29 2013

MEMORANDUM FOR PROGRAM DIRECTOR FOR ACQUISITION AND CONTRACT
MANAGEMENT, OFFICE OF THE INSPECTOR GENERAL

THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS *Per*

SUBJECT: Response to DoDIG Draft Report on "DoD Does Not Have Visibility Over the Use
of Funds Provided to the Department of Energy" (Project No. D2012-D000CF-
0133.000)

As requested, I am providing responses to the general content and recommendations
contained in the subject report.

Recommendation A.1:

A.1. We recommend that the Director, Defense Procurement and Acquisition Policy:

- a. Require DoD Components to verify that DoD customers are receiving and reviewing detailed cost proposals from the Department of Energy.
- b. Require DoD Components to perform a review to determine whether DoD contracting officers reviewed funding sent to the Department of Energy in excess of \$100,000.
- c. Coordinate with the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, to determine whether the Invoice Processing Platform meets DoD's needs to obtain required data for tracking DoD-related Work for Others projects. If the Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, determines that the Invoice Processing Platform is inadequate or unavailable for immediate use, they should develop alternatives for gathering data for DoD-related Work for Others projects.
- d. Clarify policy to specifically require DoD technical project managers assigned to Work for Others projects to meet contracting officer's representatives training requirements.
- e. Designate personnel to meet at least quarterly with Department of Energy officials to discuss interagency acquisition, terms of the memorandum of agreement, and effectiveness of the corrective action plan and document the results of the meetings.
- f. Establish a quality control process that will enforce the requirement for DoD Components to provide monthly obligation reports to Defense Procurement and Acquisition Policy and for Defense Procurement and Acquisition Policy to maintain this data so it is auditable.

- g. Request that Department of Energy accounting officials provide monthly obligation reports of DoD funds provided and whether DoD is close to exceeding the waiver threshold.

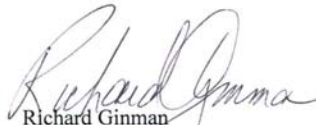
Response:

A.1.

- a. Concur. This will be included in a comprehensive update to the Department's policy memo on Doing Business with the Department of Energy (DoE).
- b. Concur. This will be included in a comprehensive update to the Department's policy memo on Doing Business with the DoE.
- c. Concur. DPAP will coordinate with USD(C)/CFO to ensure adequate data in a standard format will be obtained for proper tracking of DoD-related Work for Others projects. Based on discussions with the Treasury, OUSD(C) believes that the Invoice Processing Platform is available for immediate use and contains much of the functionality needed to conduct intra-governmental transactions. In the interim and until this is confirmed, DPAP and OUSD(C) will coordinate to develop alternatives for gathering data.
- d. Concur. DPAP will include, in a comprehensive update to the policy memo on Doing Business with the DoE, a requirement that DoD technical project managers assigned to Work for Others project will, at a minimum, meet Level I COR training requirements.
- e. Concur. The Department will specify the particulars related to this recommendation in its revised MOA with DoE.
- f. Concur. This will be included in a comprehensive update to the Department's policy memo on Doing Business with the Department of Energy and the updated MOA with DoE.
- g. Concur. This requirement will also be included in the revised MOA to be executed with DoE.

The policy memorandum on Doing Business with DoE and the revised MOA with DoE will be executed in February 2013. Data reporting (A.1.c.) will commence in March 2013.

Please contact [REDACTED] if additional information is required.


Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, Comments



COMPTROLLER

OFFICE OF THE UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100


JAN 30 2013

MEMORANDUM FOR PROGRAM DIRECTOR, ACQUISITION AND CONTRACT
MANAGEMENT, DEPARTMENT OF DEFENSE OFFICE OF
INSPECTOR GENERAL

SUBJECT: Draft Audit Report, "DoD Does Not Have Visibility Over The Use Of Funds
Provided To The Department Of Energy," Project No. D2012-D000CF-0133.000

This memo is in response to the subject December 20, 2012, report provided to this office
for review and comment. Our detailed responses are attached.

We appreciate the opportunity to respond to your audit report and look forward to
resolving the cited issues. My point of contact is [REDACTED], available at
[REDACTED] or [REDACTED].



Mark E. Easton
Deputy Chief Financial Officer

Attachment:
As stated

cc:
Office of the Deputy General Counsel (Fiscal)



**OFFICE OF THE UNDER SECRETARY OF DEFENSE (COMPTROLLER) (OUSD(C))
RESPONSE TO DEPARTMENT OF DEFENSE (DOD) OFFICE OF INSPECTOR
GENERAL (OIG) DRAFT REPORT DATED DECEMBER 20, 2012
PROJECT NO. D2012-D000CF-0133.000**

**“DOD DOES NOT HAVE VISIBILITY OVER THE USE OF FUNDS PROVIDED TO
THE DEPARTMENT OF ENERGY”**

RECOMMENDATION A.2.a.: We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD: Require DoD Components providing funds to the Department of Energy to use a standard funding document number where the first six positions are the DoD activity address code for the funding agency.

OUSD(C) RESPONSE: Concur. OUSD(C) concurs with the intent of the recommendation to find a better way to determine compliance with financial and acquisition policies and track funds sent from DoD to DOE. However, in addition to finding ways to obtain Work for Others project and funding data from DOE in the short term, we need to develop a standard process, data set and solution for capturing IGT data long term. During the IPP pilot phase in FY 2013, we can determine whether using a uniform Military Interdepartmental Purchase Request format with DoD Activity Address Code in the first six positions is required to make the end-to-end IGT solution work.

RECOMMENDATION A.2.b.: We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD: Require DoD Components to provide the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD with copies of all funding documents sent to the Department of Energy.

OUSD(C) RESPONSE: Partially Concur. OUSD(C) concurs with the intent of the recommendation to find a better way to determine compliance with financial and acquisition policies, and track funds sent from DoD to DOE. We also believe that piloting and implementing a standard IGT process using a single repository is needed. However, rather than sending every funding document to OUSD(C), the Department can work toward creating the single repository in the IPP tool. Until the IPP tool is fully deployed, we will develop an interim solution using Electronic Document Access for the single repository by the end of FY 2013.

Attachment

RECOMMENDATION B: We recommend that the Under Secretary of Defense (Comptroller)/Chief Financial Officer, DoD, instruct the Air Force to initiate a preliminary review and adjudicate the potential Antideficiency Act violation.

OSD(C) RESPONSE: **Partially Concur.** The Deputy Chief Financial Officer (DCFO) concurs that the Deputy Assistant Secretary of the Air Force for Financial Operations (DASAF(FO)) should perform a preliminary Antideficiency Act (ADA) investigation to adjudicate the potential ADA violation cited in the report. However, the audit recommendation should be redirected to the DASAF(FO) in accordance with the DoD Financial Management Regulation, Volume 14, Chapter 3. Once the preliminary investigation is complete, the DASAF(FO) can provide OIG with the results of the preliminary investigation. The Air Force initiated the investigation on January 8, 2013 (case number P13-02). **Action Complete.**



Inspector General Department of Defense

