



Department of Energy

Office of Science
Brookhaven Site Office
P.O. Box 5000
Upton, New York 11973

August 3, 2023

Dr. Susan McKeon
Associate Laboratory Director, Business Services
Brookhaven Science Associates, LLC
Brookhaven National Laboratory
Upton, New York 11973

Dear Dr. McKeon:

SUBJECT: REQUEST FOR REVIEW OF MEMO AND CONFIRMATION OF COMPLIANCE

The attached memo contains a list of inconsistencies with FAR regulations pertaining to the authorized use of federal funds to purchase goods and services for our national Laboratories.

As part of our due diligence and commitment to ensuring compliance and transparency, we would greatly appreciate if you could take the time to review the contents of the memo and kindly inform us, at your earliest convenience, if you come across any inconsistency mentioned in the memo that requires our attention.

If you have any questions, please contact Christina Lamothe, of my staff, at extension 2405.

Sincerely,

Robert P.
Gordon

Digitally signed by Robert
P. Gordon
Date: 2023.08.03
14:36:55 -04'00'

Robert P. Gordon
Site Manager

Attachment: Management and Operating Contracts and Federal Support Services Memorandum

cc: G. Olson, SC-BHSO
R. Iaropoli, SC-BHSO
J. Loh, SC-BHSO
J. Meadows, SC-BHSO
J. Anderson, BSA
J. Hill, BSA
M. Schoonen, BSA
R. Garbarino, BSA
E. Hunt, BSA
S. Pepper, BSA



Department of Energy
Office of Science
Washington, DC 20585

July 29, 2023

MEMORANDUM FOR OFFICE OF SCIENCE SITE MANAGERS
AND SITE OFFICE CONTRACTING OFFICERS

FROM:

JUSTON K. FONTAINE *Juston Fontaine*
DEPUTY DIRECTOR FOR OPERATIONS AND
HEAD OF CONTRACTING ACTIVITY

SUBJECT: Management and Operating Contracts and Federal Support Services

Recently, I have become aware of concerns related to potential work being directed to Office of Science Management and Operating (M&O) contractors in a manner that is inconsistent with Federal Acquisition Regulation (FAR) Subpart 17.6 - Management and Operating Contracts, the contractually defined scopes of work within the contracts, and long-standing Departmental policies. Office of Science policy has been, and continues to be, that M&O contractors are authorized to use federal funds to purchase goods and services that are necessary to support contractually defined programs for research and development, and for the management and operation of our National Laboratories.

The placement of subcontracts for the purchase of services that are for the express use of federal staff is prohibited. Federal support contracts should be placed by federal contracting officers, pursuant to FAR requirements, including compliance with the Competition in Contracting Act and the Small Business Act. The following guidance applies to M&O contractor purchases:

- M&O purchasing for the sole support of DOE Headquarters or field offices is prohibited.
- In certain limited circumstances, M&O contractors may purchase for mixed M&O/DOE activities when it is not practicable to segregate DOE requirements from those of the M&O contractors.
- M&O contractor purchasing should be limited to acquisitions that are necessary to support mission functions that are within the scope of their contract.

We have a collective responsibility for ensuring that contractor purchasing capabilities are utilized appropriately. M&O contractors are not a purchasing agent for DOE headquarters or field offices. M&O contractors are able to utilize commercial best practices; however, abuses of this authority, or a perception that this authority is being utilized to circumvent applicable procurement regulations and policies could jeopardize that authority. Moving forward, please advise me of any instance where the Site Office or the Laboratory is receiving pressure to circumvent the guidance in this memorandum to utilize M&O contractors for purchases that could be considered inappropriate or as a passthrough mechanism without the necessary component to employ the scientific and technological expertise of Laboratory personnel.

If you have any questions regarding this memorandum, please contact Steven C. Jones at steven.jones@science.doe.gov.