

Attachment II.2



Department of Energy

Washington, DC 20585

October 29, 1998

MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS

FROM:

MICHAEL L. TELSON *MLT*
CHIEF FINANCIAL OFFICER

SUBJECT:

GUIDANCE TO IMPLEMENT NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL YEAR 1999 DIRECTION ON
FEDERAL ADMINISTRATIVE CHARGES

On October 17, 1999, the President signed into law the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261). The Act provides the Secretary specific authorities regarding the conduct of research and other activities at Departmental facilities on behalf of other agencies of the Federal government, agencies of State and local governments, and private persons and entities. As indicated in my September 2, 1998, correspondence, the Act establishes a standard Federal administrative charge in an amount not to exceed three percent to be applied to work performed on behalf of these entities.

The attached guidance implements the provisions of the Act and establishes a three percent Federal administrative charge effective October 1, 1998, to be applied to costs incurred, on or after October 1, 1998, on agreements with non-DOE entities. This guidance closely mirrors my September 2, 1998, correspondence; however, it now provides for including the Federal administrative charge on all work performed under cosponsored agreements, cooperative research and development agreements, and agreements with foreign governments and international organizations.

Current reporting requirements applicable to small business enterprises and non-profit organizations as well as exceptions to full cost recovery are being reviewed in light of the new legislation and appropriate modifications will be provided in the near future.

If you have any questions regarding this new policy, please contact Jim Reid on (202) 586-4490 or Jim Campbell on (301) 903-9704.

Attachment

cc: Field CFOs
Headquarters Program Liaisons

Distribution:

Associate Deputy Secretary for Field Management, FM-1
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Administrator, Alaska Power Administration
Administrator, Southeastern Power Administration
Administrator, Southwestern Power Administration
Administrator, Western Power Administration

October 1, 1998

IMPLEMENTING GUIDANCE RELATING TO
NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999
SECTION 3137, ACTIVITIES OF DEPARTMENT OF ENERGY FACILITIES

GENERAL

- The pricing policy of the Department shall be full cost, which includes all direct and indirect costs incurred by the Department and its contractors in performing work on behalf of non-DOE entities, and a Federal administrative charge of three percent of the full cost.
- The Federal administrative charge includes all Federal administrative costs associated with work performed at Departmental facilities, and is in lieu of including any Headquarters and field office overhead costs applicable to such work, as well as depreciation and imputed interest.
- The three percent Federal administrative charge will be effective on October 1, 1998, and will be applied to costs incurred, on or after October 1, 1998, on all agreements with non-DOE entities, except as discussed below.

EXCEPTIONS

- There are a limited number of exceptions to the Department's pricing policy whereby the Federal administrative charge shall not be charged to non-DOE entities.
 - All funds-in agreements with domestic entities as follows: small business concerns, institutions of higher education, non-profit entities, and State and local governments.
 - Blanket exceptions covering entire segments of work previously approved by the Headquarters Office of Chief Financial Officer. Attached is a list of the approved blanket exceptions.

TRANSITION TO NEW POLICY

- Blanket Exceptions. The Headquarters Office of Chief Financial Officer shall review the approved blanket exceptions shown on the attached list with the cognizant PSO's, not later than December 31, 1998, to determine if the exception is warranted for continuation. If continuation is warranted, the PSO shall submit a formal request to the Secretary through the Departmental Chief Financial Officer for approval. If continuation is not warranted, the PSO shall initiate action to cancel the exception with the non-DOE entity, at the earliest possible time provided for in the agreement, but not later than September 30, 2000.

Individual Project Exceptions

- Pricing exceptions on existing agreements (as of September 2, 1998) will be honored as long as there are no increases in the funding level specified in that agreement. Funding increases will be subject to the Federal administrative charge.
- The Federal administrative charge will be assessed on costs incurred beginning the first of the month following the liquidation of the agreement's existing funding.
- In no instance, however, will individual project exceptions extend beyond September 30, 2000.

NEW CHARGING PRACTICES

- Reimbursable Work for Others. The Department shall charge the full cost, which includes the direct and indirect cost incurred in performing work on behalf of non-DOE entities, and a Federal administrative charge of three percent of the full cost.
- Cosponsored Work. The Department shall assess the sponsor a Federal administrative charge of three percent of all funds contributed by the sponsor, regardless of the level of Departmental participation in funding the work effort. (In-kind contributions will not be subject to the three percent Federal administrative charge).
- Cooperative Research and Development Agreements (CRADAs) and other technology transfer mechanisms. The Department shall assess the sponsor a Federal administrative charge of three percent of all funds contributed by the sponsor, regardless of the level of Departmental participation in funding the work effort. (In-kind contributions will not be subject to the three percent Federal administrative charge).

OTHER

- The Departmental Chief Financial Officer may, under extremely unique and rare conditions or circumstances, approve the waiver of costs incurred on behalf of non-DOE entities if deemed appropriate and approved by the Head of the Field Element and the cognizant Program Secretarial Officer (PSO). The costs waived must be funded entirely by the PSO from his/her own appropriations, if allowable under law.
- This guidance does not apply to the user fee practice with respect to the Department's Office of Science User Facilities.

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BLANKET PRICING EXCEPTIONS APPROVED
BY OFFICE OF CHIEF FINANCIAL OFFICER

	<u>DOE Customer</u>	<u>Date of MOU or CFO Approval</u>
1.	National Institutes of Health	June 18, 1998
2.	DOD Counterproliferation	July 21, 1994
3.	National Reconnaissance Office	October 31, 1994
4.	DOD Joint Advanced Strike Technology Program	June 7, 1996
5.	U.S. Nuclear Detonation Detection System	September 17, 1996
6.	Environmental Protection Agency	September 19, 1996
7.	Strategic Environmental Research and Development Program	April 16, 1997
8.	Defense Advanced Research Projects Agency	December 22, 1993
9.	Naval Reactors	October 26, 1990