

SC/EM Memorandum of Understanding (MOU) for DOE SC Brookhaven Site Office

Purpose

The purpose of this MOU is to define the roles and responsibilities of the Office of Science (SC) and the Office of Environmental Management (EM) prior to the transfer of the EM Long Term Stewardship (LTS) program to SC in FY2014. This MOU is intended to complement the Site Transition Plan (STP) signed by SC and EM on December 22, 2010.

Background

EM and SC have successfully collaborated to complete environmental restoration projects at Brookhaven National Laboratory (BNL) over the last 17 years. In 2005, EM completed major remediation actions involving soil and water and the Peconic River. The decommissioning and decontamination (D&D) of the Brookhaven Graphite Research Reactor (BGRR) and the High Flux Beam Reactor (HFBR) are planned to be completed by the end of FY 2012. Transfer of EM's Long Term Stewardship (LTS) program for the completed scope is planned to be transferred to SC in FY 2014. Several other SC excess facilities at BNL have also been accepted by EM for D&D in the outyears based on available funding.

Declarations

SC is the landlord responsible for Federal oversight of BNL, a DOE national laboratory with a continuing science mission. SC's Brookhaven Site Office (BHSO) provides contract and operational oversight of SC's management and operating (M&O) contractor, Brookhaven Science Associates (BSA). Environmental restoration is a priority for DOE, including EM and SC, and for the community surrounding the laboratory. EM is the primary funding source for cleanup work at BNL and is responsible for the completion of the work as described in the BGRR and HFBR Records of Decision (RODs), and in project plans for other facilities as agreed to by SC and EM. EM is also responsible for the LTS program until it is transferred to SC in FY 2014. EM and SC intend to continue to work collaboratively to assure restoration projects are completed and the LTS program is conducted in a safe, timely manner, with the best value to the government.

Acquisition Strategy

EM shall continue to use SC's prime M&O contractor for the LTS Program in FY 2013, prior to transfer in FY 2014.

- The EM Consolidated Business Center (EMCBC) shall have a Contracting Officer's Representative (COR) assigned to monitor the Brookhaven LTS scope until such time as the transfer is formally effected. The COR may be stationed at the EM CBC but will visit BNL a minimum of once a month, depending upon requirements and funding, (or less, if acceptable to both EM and SC) and will maintain cognizance of EM's operational activities,.

- SC will support the EMCBC by providing a Technical Monitor(s) to assist in oversight of the LTS scope and to perform day-to-day activities.
- The EM COR shall provide quarterly and year-end performance monitoring feedback to BHSO.

Resources

EM is responsible for the management of EM Federal resources (i.e., federal project directors, facility representatives, subject matter experts, and support service contractors). The EMCBC will communicate with BHSO to assure continued project success.

EM shall provide qualified Federal and support staff to successfully manage the LTS scope through FY 2013 year-end.

EM shall support the EM project staff located at BHSO through the EMCBC. Services shall include, but may not be limited to, human resources, procurement, finance, legal, travel and training. There may also be times where SC/BHSO will provide service support to EM to include environmental, safety and health (ES&H) oversight; environmental compliance; communications; contracting; business; legal; and management. EM will coordinate limited support with the SC/BHSO Division Directors. Support beyond what would be considered limited will be coordinated with the SC Site Manager and may include mutually developed detailed roles, responsibilities, authorities and accountabilities (R2A2s) for any significant shared resources. In the case of shared employees, such R2A2s will be consistent with their job description and qualifications and will be included in their performance elements.

EM shall also support SC/BHSO with the BNL Environmental Liability estimate update process for EM LTS through FY 2013. SC will assume full responsibility for the Environmental Liability estimate update in FY 2014 for transferred facilities and Building 701; however, EM will remain responsible for the Environmental Liability update for the HFBR Stack.

SC/BHSO shall continue to provide space for the EM project staff within the physical limits of the Site Office building and with consideration of SC space priorities. It is envisioned that one double office will continue to be used by EM.

EM shall provide an agreed upon amount (\$50K) to SC/BHSO to cover the costs for administrative/space support needs.

Communications

Through FY 2013 year-end, the EM COR and SC/BHSO Site Manager shall concur on all formal communications regarding BNL EM projects with the public, elected officials, and regulators.

EM communications with SC's Management & Operating (M&O) contractor, BSA, senior management (above the level of the Groundwater Protection Group) shall be coordinated with the SC/BHSO Operations Management Division Director.

The EM COR shall share all status reports with SC/BHSO. The EM COR and SC Technical Monitor shall share all routine communications with the regulatory agencies and the contractor. This also applies to the EM Support Service Contractor(s).

The EM COR, SC/Operations Management Division Director and SC Technical Monitor shall communicate regularly regarding the EM LTS scope progress and issues; policies, funding, strategies and processes that may potentially impact SC, EM, and BSA; and BNL site related matters that may impact EM's execution of the LTS scope.

Legal Services

Legal services/support related to the EM work conducted through the M&O contractor will be provided by the SC-Chicago Office, Office of Chief Counsel (SC-CH OCC) attorneys supporting the Site Office, unless otherwise agreed to on a case by case basis by SC-CH-OCC and the EMCBC Office of Legal Service (EMCBC OLS). In all other cases, the EMCBC OLS will provide legal services/support to the EM employees and for work performed by or under the direction of EM employees. Responsibility for Freedom of Information Act (FOIA) requests involving EM documents and records will be on a case by case basis as determined by the EMCBC OLS and the SC-CH-OCC. The representative legal offices will endeavor to keep one another informed as to legal issues arising from or affecting the EM work, particularly where such issues may have an impact outside the scope of the immediate work being conducted. EM will be responsible for all costs, such as claims and litigation arising from EM cleanup or other EM-funded activity.

Transition from EM to SC

EM plans to produce the Critical Decision-4 (CD-4) package for the BGRR project in FY 2012. This package will be approved by the EMCBC Acquisition Executive, and concurred on by the SC/BHSO Site Manager. Pursuant to the STP, EM and SC will perform a joint Readiness Assessment in FY 2013 for the EM LTS scope that is to transfer to SC in FY 2014. The Readiness Assessment will be based upon the list of action items that is contained in the STP Attachment E. EM and SC recognize that these action items will be updated, as needed, to reflect current conditions. Updates and their resolutions will be documented in the EM-SC Readiness Assessment report, and will be agreed to by both parties. The final Facility Transfer Agreement will be a memorandum documenting the results of this Readiness Assessment and will be signed at the Program Secretarial Office (PSO) level, i.e., EM-1 and SC-1, as required by DOE Order 430.1B; Real Property Asset Management. The Facilities Information Management System (FIMS) will then be updated for FY 2014 to reflect the facility transfer.

Miscellaneous Provisions

- (1) This MOU Is not intended to, and does not, restrict the authority of any party to act as provided by law, statute or regulation

- (2) This MOU addresses the activities of the parties, and as such, does not affect nor restrict the activities and authorities of any other EM/SC office.
- (3) This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any person against the United States, its departments, agencies, or entities, its officers, employees or agents or any other person
- (4) As required by the Antideficiency Act, 31 U.S.C. Sections 1341, 1342, and 1517, all activities of the parties in implementing this MOU are subject to the availability of appropriated funds. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations and procedures under separate written agreements.

Term of This MOU and Change Procedure

This MOU is an update of the previous MOU signed in 2008 and focuses on the EM Transition and LTS scope to be performed in FY 2013, prior to transfer to SC in FY 2014. This MOU shall be effective upon final signature of both the EM and SC approval authorities. The MOU may be terminated 30 days after either EM or SC provides written notice to the other entity.

The MOU may be modified only upon the written agreement of both EM and SC. However, either approval authority may initiate a proposed change to the MOU at his/her discretion. A new SC/EM MOU will be developed for future work at BNL, such as the D&D of the HFBR stack.

Signatures

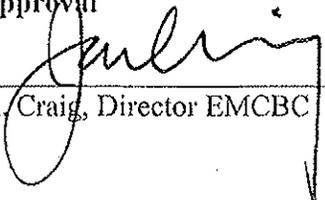
SC Approval



Michael D. Holland, BHSO Manager

6/22/12
Date

EM Approval



Jack R. Craig, Director EMCBC

6/19/2012
Date