

NRC FORM 662 (3-2007)		U.S. NUCLEAR REGULATORY COMMISSION		1. DATE OF ISSUE	2. AGREEMENT NUMBER NRC-DR-10-09-407	3. MOD NO.
AWARD OF INTERAGENCY AGREEMENT				4. AGENCY LOCATOR NO. 31000001	5. B & R NUMBER 94015-5B1304	
6. ISSUED BY U.S. Nuclear Regulatory Commission Division of Contracts Attn: James Leedom Mail Stop: TWB-01-B10M Washington, DC 20555				7. JOB CODE D2372	8. APPROPRIATION SYMBOL X0200	
				9. BOC 253D	10. DOCUMENT IDENTIFICATION NUMBER FFS# ADM-09-407	
				11. NAME AND ADDRESS OF SERVICING AGENCY U.S. Department of Energy Capital Accounting Center 19901 Germantown Road Germantown, MD 20874 Duns# 106426034		
PROJECT MANAGER Emily Robinson				12. JOB CODE TITLE Security Investigations and Support		
				13. AGREEMENT PERFORMANCE PERIOD BEGIN: 03/16/2009 END: 04/17/2009		
14. OBLIGATION AVAILABILITY PROVIDED BY						
A. THIS ACTION				\$	35,520	
B. TOTAL PLACED PRIOR TO THIS ACTION WITH THE PERFORMING ORGANIZATION UNDER THIS JOB CODE FOR THIS FISCAL YEAR				\$	0	
C. TOTAL ORDERS TO DATE FOR THIS JOB CODE FOR THIS FISCAL YEAR				\$	35,520	
D. TOTAL ORDERS TO DATE FOR THIS AGREEMENT				\$	35,520	
15. ATTACHMENTS THE FOLLOWING ATTACHMENTS ARE MADE A PART OF THIS AGREEMENT <input type="checkbox"/> STATEMENT OF WORK <input type="checkbox"/> ADDITIONAL TERMS AND CONDITIONS <input checked="" type="checkbox"/> OTHER (Specify) <u>MOA, Letter, Billing Info.</u>				16. SECURITY <input type="checkbox"/> WORK ON THIS AGREEMENT INVOLVES CLASSIFIED INFORMATION <input checked="" type="checkbox"/> WORK ON THIS AGREEMENT INVOLVES SENSITIVE UNCLASSIFIED INFORMATION <input type="checkbox"/> WORK ON THIS AGREEMENT IS UNCLASSIFIED AND NOT SENSITIVE		
17. FEE BILLABLE UNDER 10 CFR PART 170 <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO						
18. REMARKS The purpose of this interagency agreement is to provide the NRC with a Personnel Security Review Panel. All work shall be conducted in accordance with the attached MOA between the NRC and DOE. All work and travel (FTR apply) shall be billed on a reimbursable basis. See attached letter for hourly rate (\$73.41) and DOE acceptance of work.						
19. AUTHORITY TO ENTER INTO INTERAGENCY AGREEMENT (Check only one) <input type="checkbox"/> ENERGY REORGANIZATION ACT OF 1974, AS AMENDED <input type="checkbox"/> THE ECONOMY ACT OF 1932 <input type="checkbox"/> THE CLINGER-COHEN ACT OF 1996 <input checked="" type="checkbox"/> OTHER (Specify) <u>CFR 10.31 & 10.32</u>						
20. ADVANCE PAYMENT <input checked="" type="checkbox"/> IS NOT AUTHORIZED <input type="checkbox"/> IS AUTHORIZED (Requires approval by Director, DFS/OCFO)						
21. ESTIMATED COST FOR FULL PERFORMANCE OF THIS AGREEMENT						
FY 2009	FY	FY	FY	FY	TOTAL	
\$ 35,520	\$	\$	\$	\$	\$ 35,520	
22. CERTIFICATION OF FUNDS This certifies that funds in the amount cited in Block 14.A. are available in the current fiscal year allowance for work authorized by this agreement.						
FUNDS CERTIFICATION OFFICIAL (Typed Name) Patti Humphreys				SIGNATURE <i>Patti Humphreys</i>	DATE 3/12/09	
23. SIGNATURES						
NRC ISSUING AUTHORITY (Typed Name and Title) Jeffrey L. McDermott, CO				SIGNATURE <i>Jeffrey L. McDermott</i>	DATE 3/12/09	
SERVICING AGENCY OFFICIAL/DESIGNEE (Typed Name and Title) Patricia G. Spencer, Admin. Officer				SIGNATURE <i>Patricia G. Spencer</i>	DATE 3/16/09	

NRC FORM 662 (3-2007)

PRINTED ON RECYCLED PAPER

TEMPLATE - ADM001

SUNSI REVIEW COMPLETE

MAR 24 2009

ADM002

**NRC CONTACTS:
TECHNICAL:**

FULL NAME Emily Robbins		ADDRESS U.S. Nuclear Regulatory Commission Mail Stop: TWB-05-B32M Washington, DC 20555
TELEPHONE NUMBER 301-492-3524	FACSIMILE NUMBER	
E-MAIL ADDRESS Emily.Robbins@nrc.gov		

ADMINISTRATIVE:

FULL NAME James Leedom		ADDRESS U.S. Nuclear Regulatory Commission Mail Stop: TWB-01-B10M Washington, DC 20555
TELEPHONE NUMBER 301-492-3615	FACSIMILE NUMBER 301-492-3437	
E-MAIL ADDRESS James.Leedom@nrc.gov		

**OTHER AGENCY'S CONTACTS:
TECHNICAL:**

FULL NAME Fred Brown		ADDRESS Department of Energy Office of Hearings and Appeals 950 L'Enfant Plaza Room 7042 Washington, DC 20584
TELEPHONE NUMBER 202-287-1545	FACSIMILE NUMBER 202-287-1415	
E-MAIL ADDRESS Fred.Brown@hq.doe.gov		

ADMINISTRATIVE:

FULL NAME Patricia G. Spencer		ADDRESS Department of Energy Office of Hearings and Appeals 950 L'Enfant Plaza Room 7042 Washington, DC 20584
TELEPHONE NUMBER 202-287-1550	FACSIMILE NUMBER 202-287-1415	
E-MAIL ADDRESS Patricia.Spencer@hq.doe.gov		

BILLING INFORMATION: To receive reimbursement under this agreement, forward to NRC on a (check one):

monthly quarterly other _____ basis, an original and three copies of Standard Form 1081 in accordance with the Treasury Fiscal Requirements Manual, Bulletin No. 78-09, or, if possible, bill monthly through the OPAC system. Send reimbursement requests to the following address:

~~Payment Policy and Obligations Team
Mail Stop: T-9 F30
Division of Financial Services
Office of the Chief Financial Officer
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001~~

See Attached
James LL
3/11/09

Any NRC funds remaining unexpended at the end of a fiscal year may be carried over into future fiscal years unless otherwise notified by NRC.

REPORTING REQUIREMENTS: Submit reports to the NRC in accordance with the statement of work. Submit financial status reports on a (check one):

monthly quarterly other **On an agreed upon** basis. These reports shall contain a brief letter status which summarizes the expenditure of NRC funds. This report shall address the following categories, as applicable: (1) staff effort; (2) travel; (3) equipment and supplies; and (4) subcontract costs. Each report shall include by category: (a) costs for the previous month; (b) cumulative costs and uncosted obligations to date; and (c) projections for the remainder of the NRC obligated funds. The first monthly report shall provide the initial projections, and subsequent reports shall either indicate revised projections or indicate "no change in the cost and uncosted expenditure projection."

Submit these reports to the NRC Technical Contact by the 20th day of the month following the reporting period.

TERMINATING THE AGREEMENT: This agreement may be unilaterally terminated by either party generally upon 30 days' written notice to the other party. NRC will pay its share of any project expenses up to the termination date. Any expenses incurred in terminating this agreement will be paid by the party terminating the agreement. Any unexpended funds shall be returned to the NRC.

MEMORANDUM OF AGREEMENT
BETWEEN THE NUCLEAR REGULATORY COMMISSION AND THE DEPARTMENT OF
ENERGY FOR THE CONDUCT OF NRC PERSONNEL SECURITY ADMINISTRATIVE REVIEW
HEARINGS AND REVIEW PANELS

A. PURPOSE

The DOE-NRC Memorandum of Understanding dated February 24, 1978 addresses broad policy matters between the two agencies and provides that additional agreements shall be established to further its purposes. This memorandum establishes an agreement and procedures to obtain the services of attorneys from DOE's Office of Hearings and Appeals (OHA) for the conduct of hearings and administrative review of questions concerning an individual's eligibility for access authorization and/or employment clearance. These attorneys shall serve as hearing examiners to conduct NRC personnel security Administrative Review Hearings and serve as members of personnel security Review Panels. Unless specified separately, Administrative Review Hearings and Review Panels are hereinafter referred to collectively as hearings.

B. BACKGROUND

1. Since its establishment in 1975, the NRC has conducted five personnel security hearings. The low number of hearings has made it extremely difficult for NRC to recruit and maintain a pool of qualified attorneys to serve as hearing examiners and members of Review Panels.
2. Accordingly, at the request of the NRC Office of Administration, Division of Facilities and Security (DFS), the OHA has agreed to provide a pool of qualified attorneys to serve as hearing examiners and members of personnel security Review Panels for NRC. The number of such hearings is expected to remain very low. NRC will reimburse OHA for salary and related expenses incurred in the conduct of NRC personnel security hearings.

C. AGENCY INTERFACE PROCEDURES

1. There shall be a designated point of contact between each agency for matters concerning NRC personnel security hearings. The NRC point of contact is the Chief, Personnel Security Branch, DFS, Office of Administration. The DOE point of contact is the Chief, Docket and Publications Branch, OHA.
2. As the need arises, the Director, Office of Administration, NRC, shall request the Director, OHA, in writing to designate three qualified attorneys who are available to serve as hearing examiners in an NRC Administrative Review Hearing. The request letter shall state the issue(s) to be determined at the hearing and identify the hearing procedures that shall apply. NRC shall select one individual from the three OHA-designated attorneys and notify OHA of its selection. Similarly, as the need arises, the Director, Office of Administration, NRC, shall request the Director, OHA, in writing to designate five qualified attorneys who are available to serve as members of a Review Panel. The request letter shall state the issue(s) to be determined by the Review Panel and identify the procedures that shall apply. NRC shall select three individuals from the five OHA-designated attorneys and notify OHA of its selection. Should the selected attorney(s) withdraw or otherwise

not be able to serve as the hearing examiner or member of the Review Panel, NRC, in consultation with OHA, shall select another qualified individual(s). All attorneys must meet the requirements of an NRC "Q" level access authorization.

3. When DOE/NRC agree to the selection of a DOE attorney for hearing examiner, as provided in paragraph C.2 above, NRC will initiate an interagency agreement to provide a mechanism for reimbursement of all DOE expenses related to salary and per diem for DOE provided attorneys. The NRC interagency agreement will include funding and a ceiling value for DOE expenses related to salary and per diem for DOE provided attorneys.
4. Administrative support for hearings will be provided by the NRC Personnel Security Branch. This includes the provision of hearing rooms, court reporter/transcription services and such other support as may be requested by the hearing examiner, Review Panel or OHA.

D. HEARING PROCEDURES

1. The establishment of hearing dates and the rules for the conduct of hearings shall be in accordance with the procedures identified below. Copies of applicable procedures will be provided to OHA by NRC under separate cover.
2. Hearings will normally be conducted in accordance with the procedures specified in Subpart C of 10 CFR Part 10, "Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance." These procedures establish methods for the conduct of hearings and administrative review of questions concerning an individual's eligibility for access authorization and/or employment clearance pursuant to the Atomic Energy Act of 1954, as amended, and Executive Orders 10450, 10865 and 12968 when resolution favorable to the individual cannot be made on the basis of interview or other investigation.
3. Subpart C, 10 CFR Part 10, procedures are also used for the conduct of hearings and administrative review of questions concerning an individual's eligibility for access to or control over Special Nuclear Material pursuant to 10 CFR Part 11, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material," Section 11.21.
4. Hearings may also be conducted pursuant to 5 U.S.C. 7532 to determine whether an individual's continued employment with the NRC is clearly consistent with national security. The procedures for the conduct of hearings under 5 U.S.C. 7532 are contained in NRC Management Directive and Handbook 12.3, NRC Personnel Security Program (M.D. 12.3)
5. Additionally, procedures have been established by NRC in M.D. 12.3 for the conduct of hearings to determine the eligibility of NRC contractor personnel for unescorted access to nuclear power facilities, access to unclassified Safeguards information and access to sensitive NRC information technology systems and data under the NRC personnel screening program.

6. The finding(s) and recommendation(s) of the hearing examiner/review panel shall be made and provided to NRC in accordance with the applicable procedures established by NRC for the conduct of hearings.

E. LOCATIONS OF HEARINGS

Administrative Review Hearings may be conducted at NRC Headquarters in Rockville, Maryland, at or near NRC Regional Offices located in King of Prussia, Pennsylvania; Atlanta, Georgia; Lisle, Illinois; or Arlington, Texas; or near NRC licensee sites. Review Panels will normally meet at or near NRC Headquarters, Rockville, Maryland.

F. RESOURCE IMPLICATIONS

NRC is responsible for all authorized hearing related costs incurred by OHA. NRC will obligate funds for salary and related expenses through an interagency agreement with DOE. Travel costs and *per diem* expenses incidental to NRC hearings will be borne by NRC in accordance with NRC travel regulations. NRC will provide airline tickets, if needed, through its contract travel service. Travel expenses will be authorized on NRC Form 279 and may be claimed on NRC Form 64.

G. AMENDMENT AND TERMINATION

This MOA may be amended by mutual written agreement between DOE and NRC. The MOA may be canceled in writing by either party providing a three month notice of cancellation.

H. EFFECTIVE DATE

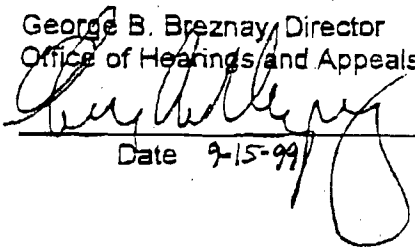
DOE and NRC agree to implement this MOA immediately. This agreement becomes effective upon the signature of the officials shown below.

Approved for DOE:

Approved for NRC:


George B. Breznay, Director
Office of Hearings and Appeals

Michael L. Springer, Director
Office of Administration


Date 9-15-99

Date

Craig S. Frame, Contracting Officer
Office of Headquarters Procurement Services


Date SEP 16 1999



Department of Energy
Washington, DC 20585

FEB 24 2009

Timothy F. Hagan, Director
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Hagan:

This will confirm our receipt of your letter, dated February 18, 2009, on behalf of the U.S. Nuclear Regulatory Commission (NRC). In your letter, you request the services of the Office of Hearings and Appeals (OHA), U.S. Department of Energy (DOE), to conduct an administrative review of a clearance revocation by a personnel security review panel (PSRP), under NRC regulations set forth at 10 CFR §§ 10.31, 10.32. In making this request, NRC acknowledges a Memorandum of Agreement (MOA) between NRC and DOE that was executed by DOE in September 1999.

OHA hereby formally agrees to perform the PSRP function in the concerned security clearance proceeding. Pursuant to a phone conversation between NRC's Valerie Kerben and Sandra Schoenmann, and Fred Brown, OHA Deputy Director, I have selected three attorneys from OHA's staff to serve as members of the PSRP. The persons I have selected are Ann S. Augustyn, Virginia A. Lipton and Kent S. Woods, who are among OHA's most capable, senior attorneys. Each of them holds a "Q" clearance and has many years of experience in conducting personnel security hearings as Hearing Officers.

Paragraph C.3. of the MOA provides that "NRC will initiate an interagency agreement to provide a mechanism for reimbursement of all DOE expenses related to salary and per diem for DOE provided attorneys . . . [and] will include funding and a ceiling value for DOE expenses related to salary and per diem for DOE provided attorneys." We will await instructions from NRC regarding the interagency agreement. In this regard, you may wish to know that the three attorneys I have designated to serve on the PSRP are at the GS-15, step 10, salary level, which equates to an hourly rate of \$73.41 under the 2009 federal pay scale. Having not yet examined the file, we cannot estimate the number of hours that will be required for the PSRP to complete its work. However, it is our intention that the OHA/PSRP will complete its administrative review and issue a report of its findings and recommendation as expeditiously as possible.

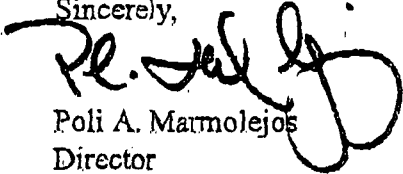
We also require instructions on the logistical arrangements to obtain the case record under review. If not overly voluminous, our preference would be to obtain three copies of the record, one for each member of the panel. Please be assured that OHA has many years of experience in



handing personnel security case files and will take every reasonable precaution to protect personal identifying information or other information of a confidential or sensitive nature.

If you have any questions concerning this letter, please contact Fred Brown, OHA Deputy Director, at (202) 287-1545, e-mail: fred.brown@hq.doe.gov. Thank you and we look forward to working with you on this matter and other cases that may arise.

Sincerely,

A handwritten signature in black ink, appearing to read "Poli A. Marmolejos". The signature is stylized and written over the printed name.

Poli A. Marmolejos
Director

Office of Hearings and Appeals

Billing Information:

Send reimbursement requests to the following address:

Department of Interior
National Business Center
Attn: Fiscal Services Branch – D2770
7301 W. Mansfield Avenue
Denver, CO 80325-2230

E-mail: NRCPayments@nbc.gov