

## Attachment I, Revision 1

### Safeguards and Security Responsibilities for USEC Inc. Subcontractors, Vendors, and Partners Associated with the American Centrifuge Plant

#### I. PURPOSE AND SCOPE

The purpose of this attachment is to define the process for assigning safeguards and security responsibility between the U.S. Department of Energy (DOE) and the U.S. Nuclear Regulatory Commission (NRC) over USEC Inc., subsidiaries, and subcontractors, vendors and partners involved in American Centrifuge Program (ACP) activities. By agreement of DOE and the NRC, this attachment will assign safeguards and security responsibilities commensurate with efficient operations and to minimize the impact of dual regulation wherever possible with respect to the ACP. However, nothing in this attachment restricts or otherwise limits the authority of either NRC or DOE to exercise its full regulatory authority, including both inspection and enforcement authority. It is understood that this attachment defines participants and facilities at a given point in time, and that commercial operations may require the introduction of additional participants and/or facilities; therefore, it is agreed that DOE and the NRC shall use the framework defined in this attachment to assign safeguards and security oversight responsibilities for any additional participants and/or facilities introduced to the ACP.

As part of the migration of the ACP toward commercial operations, USEC Inc. established five subsidiaries as Limited Liability Companies (LLCs). This strategic business operation requires that certain subsidiaries be issued Access Permits by DOE in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 725, to allow access to Restricted Data for use in their business operations<sup>1,2</sup>. These Access Permits grant the subsidiaries access to Restricted Data in the Category C-24, Isotope Separation Subcategory A and/or Subcategory B, and require conformity with specific conditions listed within each Access Permit. Because each Access Permit requires conformance with 10 CFR Part 725.23(c)(1), which invokes not only 10 CFR Parts 810 and 1016, but also applicable DOE Orders, the NRC and DOE have resolved to utilize a "teaming" approach for regulation of each subsidiary. This approach is discussed later in this attachment.

This revision of Attachment I was completed to address issues associated with USEC Inc.'s request for transfer of the American Centrifuge Plant license to a newly created subsidiary, American Centrifuge Operating, LLC, and to address other changes since the Memorandum of Understanding (MOU) was put into place, including the fact that the March 24, 2004, Lead Cascade MOU between DOE and the NRC is no longer applicable.

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1. Memorandum dated December 3, 2007 from Glenn S. Podonsky, DOE Chief Health, Safety and Security to Gerald G. Boyd, Manager, DOE Oak Ridge Office, subject, ***Delegation of Authority for Approval of the United States Enrichment Corporation Access Permit.***
  2. Memorandum dated December 3, 2007 from Glenn S. Podonsky, DOE Chief Health, Safety and Security to Gerald G. Boyd, Manager, DOE Oak Ridge Office, subject, ***Delegation of Authority for Administration of C-24 Access.***

## II. DEFINITIONS

“Manufacturing Partners” shall mean the contractors and associated facilities chosen by the appropriate USEC Inc. subsidiary to manufacture or assemble completed centrifuge machines and/or components and assemblies that will be used in such machines. These operations will require the Manufacturing Partners to participate in the facility clearance process in order to possess classified centrifuge (i.e., C-24) technology.

“Vendors” shall mean contractors and/or commercial entities and associated facilities that will be selected by the appropriate USEC Inc. subsidiary to supply raw materials, specific components, or services to the Manufacturing Partners. These operations may not require the Vendors to participate in the facility clearance process.

“Subsidiary” shall mean any or all of the following: American Centrifuge Holding, American Centrifuge Operating, American Centrifuge Enrichment, American Centrifuge Manufacturing, and American Centrifuge Technology.

## III. RESPONSIBILITIES

- A. NRC will be the Lead Cognizant Security Agency (CSA) for USEC, Inc. located in Bethesda, Maryland.
- B. DOE will be the Lead CSA for American Centrifuge Technology, LLC and will be the point-of-contact for regulatory oversight of manufacturing partners associated with the Cooperative Research and Development Agreement (CRADA) efforts between USEC and UT-Battelle, LLC, located at the following Oak Ridge, TN, facilities:
  - K-1600 facility at the East Tennessee Technology Park located in Oak Ridge, TN
  - Babcock and Wilcox Clinch River, LLC Centrifuge Technology and Manufacturing Center located in Oak Ridge, TN
  - Centrifuge Technology Center located in Oak Ridge, TN
- C. DOE will retain the authority to verify compliance at all applicable facilities with the requirements listed in each Access Permit.
- D. DOE will retain regulatory oversight and safeguards and security responsibility for USEC Inc.'s and its subsidiaries' vendor procurement activities. NRC will be kept informed of such vendor operations and may participate in any of the associated surveys that DOE performs on these activities.
- E. NRC will be the Lead CSA for all facilities associated with American Centrifuge Operating, LLC; American Centrifuge Manufacturing, LLC; American Centrifuge Enrichment, LLC; and American Centrifuge Holdings, LLC. This includes the following companies and facilities that are associated with American Centrifuge Manufacturing, LLC:
  - Curtiss-Wright, located in Cheswick, PA
  - ATK located in Rocket Center, WV

F. Teaming Approach where NRC is the Lead Cognizant Security Agency (CSA)

- a. A common set of security requirements will be developed applicable to USEC Inc. and its subsidiaries.
  - b. Where noted above, the NRC will be the Lead CSA and the Lead agency for enforcement actions. However, nothing restricts or otherwise limits the authority of DOE to exercise its full regulatory authority, including both inspection for compliance with Access Permit requirements and enforcement authority within its jurisdiction.
  - c. Revised security plans submitted by the subsidiaries in which NRC is the Lead CSA will be submitted to NRC for review and approval. To ensure compliance with Access Permit requirements, NRC will provide the plans to DOE for its review and approval. DOE will provide the results of its review to the NRC, and NRC will communicate the results of the review to the subsidiaries. The plans will be reviewed against the common set of security requirements discussed in item a. above and for compliance with the requirements specified in the Access Permits. All formal interactions with USEC, Inc. and the subsidiaries on the revised plans will be conducted through the NRC. Once DOE and NRC are satisfied the revised plan meets the common set of security requirements and the applicable Access Permit requirements, NRC will notify the respective subsidiary that the plan has been approved.
  - d. NRC will be the lead agency for conducting inspections for those entities where they are the Lead CSA, and will issue the inspection reports. To ensure compliance with the Access Permit requirements, DOE will provide Subject Matter Experts, as necessary, to support the inspections. Any DOE staff observations or findings will be included in NRC's inspection reports.
  - e. If DOE determines that an inspection is needed to verify compliance with Access Permit requirements, DOE will notify NRC. A determination will be made if NRC can support the inspection, based upon staff availability and resources. If it is determined that NRC cannot support the inspection, DOE may perform the inspection and provide the results to the NRC. If any violations are identified, NRC may perform an additional inspection in order to take enforcement actions; however, this does not preclude DOE from utilizing its own enforcement process.
  - f. DOE may perform inspections at any facility where compliance with applicable Access Permit requirements is required following consultation with NRC.
  - g. The NRC will notify DOE of any planned or for cause inspections associated with applicable Access Permit requirements.
  - h. For those facilities under NRC cognizance, NRC will share information entered into SIMMS pertaining to security assessments, observations, findings, and inspection reports.
- G. In accordance with Section VIII. of the March 24, 2004, MOU between DOE and the NRC for the Lead Cascade, the parties hereto mutually agree that the March 24, 2004, MOU is no longer necessary and is hereby terminated.

#### IV. Approval of Revision to Attachment

Consistent with Footnote 5 of this MOU, representatives of the DOE and NRC have discussed and agreed upon the changes in this attachment. Accordingly, with the signatures below, this attachment has been revised and is immediately effective.

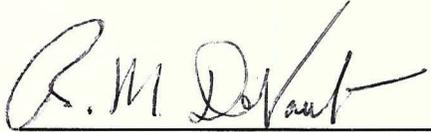
For the U.S. Nuclear Regulatory Commission



Date: 7/1/11

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Brian W. Smith, Chief  
Uranium Enrichment Branch  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

For the U.S. Department of Energy



Date: 7/13/11

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Randall M. DeVault  
Regulatory Oversight Manager  
Office of Assistant Manager  
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