MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF LABOR
AND THE U.S. DEPARTMENT OF ENERGY

I. INTRODUCTION

This Memorandum of Understanding (MOU) serves to set forth the authorities, responsibilities, and procedures by which the Department of Labor (DOL) and the Department of Energy (DOE) will conduct statutorily mandated activities required to assist with claims processing under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). EEOICPA provides for timely, uniform, and adequate compensation of covered employees and, where applicable, survivors of employees suffering from illnesses incurred by the employees in the performance of duty.

DOL and DOE will make every effort to ensure that activities conducted under this MOU, as well as those conducted through other mechanisms, are coordinated, non-duplicative, and supportive of a fair and timely compensation program for covered workers and their eligible survivors.

II. BACKGROUND

EEOICPA, Part B, establishes a compensation program to provide lump-sum payments and medical benefits as compensation to covered employees suffering from designated illnesses that occurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for DOE and certain of its vendors, contractors, and subcontractors. This law also provides for compensation payments to certain survivors of covered employees. In the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108-375 (codified as amended in scattered sections of Title 42 of the U.S.C.), Congress abolished Part D of EEOICPA and created a new Part E in its place. Part E established a new system of Federal payments for employees of DOE contractors and subcontractors, or their eligible survivors, who develop an illness due to exposure to toxic substances at certain DOE facilities.

Congress instructed the President to carry out the compensation program through one or more Federal Agencies or officials as designated by the President. Pursuant to this statutory provision, the President issued Executive Order (E.O.) 13179, entitled "Providing Compensation to America's Nuclear Weapons Workers," which assigned primary responsibility for administering the compensation program to DOL. This E.O. assigned certain specific responsibilities to the Department of Health and Human Services and DOE that are enumerated in other sections of this MOU. EEOICPA also instructed the President to establish and appoint an Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board).

III. PURPOSE

This MOU sets forth the guidelines for collaboration between DOL and DOE in carrying out their respective responsibilities under EEOICPA and E.O. 13179. This MOU is not intended to affect existing MOUs and Interagency Agreements (IA) between DOL and DOE or to preclude DOL and DOE from entering into MOUs and IAs for other purposes.

IV. AUTHORITIES

This MOU is consistent with, and is entered into under, the authority of EEOICPA and E.O. 13179.

V. RESPONSIBILITIES

A. General – Executive Order 13179

The responsibilities assigned to DOL by E.O. 13179 that are relevant to actual or potential interactions between DOL and DOE are as follows:

1. Administer and decide all questions arising under EEOICPA not assigned to other agencies by EEOICPA or by E.O. 13179, including determining the eligibility of individuals with covered occupational illnesses and their survivors and adjudicating claims for compensation and benefits.

2. Ensure the availability, in paper and electronic format, of forms necessary for making claims under EEOICPA.

3. Develop informational materials, in coordination with DOE to help potential claimants understand EEOICPA and the application process, and provide these materials to individuals upon request and to DOE for dissemination to potentially eligible individuals.

The responsibilities assigned to DOE by E.O. 13179 that are relevant to actual or potential interactions between DOE and DOL are as follows:

1. Upon request from DOL, and as permitted by law, require a DOE contractor or subcontractor to provide information relevant to a claim under EEOICPA.

2. Identify and notify potentially eligible individuals of the availability of compensation under EEOICPA.

3. Designate and list AWE facilities pursuant to EEOICPA.

B. DOL Responsibilities

1. <u>Identification of Data Needs</u>

DOL will evaluate and identify the data, documents, and information that are relevant and necessary for carrying out its responsibilities under EEOICPA, including verifying dates and places of employment, reviewing medical records, and verifying covered illnesses.

In conducting these activities, DOL will strive for efficiency in collecting site profile data for use in enhancing the Site Exposure Matrices (SEM) and employment information from DOE and its site contractors. To accomplish this goal, DOL will search relevant in-house data sources to ensure that requests for access to necessary information are not duplicative. DOL will request from DOE only the data and information DOL believes are relevant to individual worker claims to verify employment at a covered facility, or to complete site profiles for use in the SEM.

The types of individual, group-based, or general information that may be relevant to DOL's responsibility include, but are not limited to, the following:

1. Employment history for individual workers;
2. Group and individual worker-monitoring data;
3. Workplace area-monitoring data;
4. Process description information and process history;
5. Incident, safety, and accident reports;
6. Pertinent excerpts from employee medical records;
7. Information on the quantity and composition of toxic substances; and
8. Identification, last known address, and phone numbers of current and former supervisors, occupational safety and health staff, and nonsupervisory employees of DOE and its contractors and subcontractors with expertise on items 1-7 above.

DOL will be responsible for the management of all data collected by DOL employees and contractors, including data obtained from DOE and its contractors. DOL employees and contractors will safeguard all data in accordance with Office of Workers' Compensation Programs (OWCP) Division of Energy Employees Occupational Illness Compensation (DEEOIC) and DOE Office of Health, Safety and Security (HSS) Security Plans and policies, as well as guidance under the DOL Records Management Policy **(http://www.dol.gov/oasam/foia/DLMS-Chapters/dlms1-0400.htm),** and DOE Directives pertaining to accessing, safeguarding, and transmitting classified, Unclassified Controlled Nuclear Information, and provisions of the Privacy Act:

1. DOE M 471.3-1, "Manual for Identifying and Protecting Official Use Only Information";
2. Federal Information Processing Standards Publication (FIPS) PUB 140-2, " Security Requirements for Cryptographic Modules";
3. DOE M 205.1-8, "Cyber Security Incident Management Manual"; and
4. DOE O 206.1, "Department of Energy Privacy Program."

Should DOL have a question concerning the proper handling of a particular document or class of documents, DOL will consult with DOE.

DOL created a Privacy Act Systems of Records, DOL/ESA-49, "Office of Workers' Compensation Programs, Energy Employees Occupational Illness Compensation Program Act File" on April 8, 2002.

2. Security Clearances

DOL personnel and contractors with appropriate security clearances will review documents and data deemed by DOL to be relevant and necessary for carrying out DOL responsibilities under EEOICPA. DOL will expedite completion of necessary applications for appropriate security clearances to facilitate DOE's clearance determinations and permit entry to DOE and DOE-owned, contractor-operated facilities. DOL will be responsible for costs associated with new investigations and reinvestigations for DOL Federal and contractor employees requiring a DOE security clearance.

3. Review of Documents for Classified and Controlled Information

DOL and its contractors will send to DOE for declassification/decontrol/redaction/review DOE documents marked as containing classified and/or unclassified controlled nuclear information that DOL identifies as necessary to carry out its responsibilities under EEOICPA for appropriate classification review in accordance with requirements outlined in the OWCP/DEEOIC and DOE/HSS Security Plans.

4. Protection of Personally Identifiable Information

Information determined to be Personally Identifiable Information (PII) must be protected in accordance with relevant statutes, Office of Management and Budget (OMB) guidelines, and DOL regulations and policies. DOL will follow its Privacy Act regulations and policies which are found at 29 C.F.R. part 71, and DOL policies regarding PII found at **http://www.DOL.gov**.

For this MOU, all parties agree that PII must be protected in accordance with the Privacy Act of 1974, OMB Circular No. A-130, "Management of Federal Information Resources", and each Agency's regulations and policies. Transmission of data between Agencies will be in accordance with agreed-upon protocols which will, at a minimum, include the following requirements:

1. Data stored on removable media (CD, DVD, USB Flash Drives, etc.) must be protected using encryption products that are certified pursuant to FIPS 140-2.

2. Passwords used in conjunction with FIPS 140-2 certified encryption must meet the current DOE password requirements.

3. Transmission of removable media must be sent by express overnight service with signature and tracking required.

4. Data files containing PII that are being sent by e-mail must be encrypted with FIPS 140-2 certified encryption products.

5. Passwords used to encrypt data files must be sent separately from the encrypted data file; i.e., separate e-mail, telephone call, or separate letter.

6. Web sites established for the submission of information that includes PII must use FIPS 140-2 certified encryption methods.

7. In addition to other reporting requirements, the loss, or suspected loss, of PII must be reported immediately upon discovery to:

(a) For DOE, the DOE-Cyber Incident Response Capability (CIRC) (**http://www.doecirc. energy. gov**) and DOE/HSS' Office of Information Management, and DOL/OWCP/DEEOIC.

(b) For DOL, the DOL PII Breach Response Team (**http://www.dol.gov/owcp/procedure-manual/privacy.pdf**) and DOE/HSS' Office of Information Management.

5. Requesting Data from DOE

DOL will direct requests for relevant employment and exposure information as well as for relevant site data to DOE or other points of contact identified by DOE. These requests will identify the specific type(s) of information needed and, if appropriate, the identity of the employee(s) whose records are needed. Each of these requests will indicate that a timely response is needed, and if more than 60 days are required to provide the requested information, DOE will notify DOL promptly. Requests for information take the form of employment verification requests and requests for exposure information.

Approximately monthly, DOL will provide to DOE and each designated point of contact a status report describing the number of requests sent, number of responses received to date, and a listing of any requests that are outstanding for more than 60, 90, 120, and 150 days. This report will also identify the status of follow-up requests for information. DOL and DOE will provide points of contact (POCs) for these requests and will work to eliminate inefficiencies as they are identified.

6. DOE Former Worker Communication and Assistance

DOE will review its existing contracts and amend them as necessary to ensure that the contractors collect and maintain information needed to carry out DOE obligations under EEOIPCA, and that DOL and its agents have the necessary access to relevant information, on a need-to-know basis. DOL will coordinate with DOE to maintain a

Joint Outreach Task Group to identify claimants that may be eligible for benefits under EEOICPA, assist in disseminating information on programmatic changes, hold Town Hall meetings to educate potential claimants, or for other purposes, as necessary.

7. Facilities Research

DOL will conduct site research and determine DOE facilities and their covered timeframes. DOL will research data on AWE and beryllium vendor facilities designated by DOE to establish covered facility dates. DOL will notify agency partners of additions or changes regarding DOE facilities or AWE/beryllium vendor covered timeframes to ensure that the covered facilities website contains current information.

8. Official Point of Contact

DOL designates the following individual as the official point of contact for this MOU:

Name:	Rachel P. Leiton
Title:	Director, Division of Energy Employees Occupational Illness Compensation
Address:	200 Constitution Avenue, NW C-3321 Washington, DC 20210
Telephone:	(202) 693-0081
Fax:	(202) 693-1465

C. DOE Responsibilities

1. Provision of Data to DOL

Upon request by DOL and consistent with applicable law and DOE security requirements, DOE will provide DOL and DOL contractors with access to, and copies of, data, documents, and information deemed by DOL to be relevant and necessary for carrying out its responsibilities under EEOICPA, including establishing periods of covered employment for individual covered employees and evaluating data about facilities in order to create site profiles for use in SEM. This access includes access to "Restricted Data," as defined in the Atomic Energy Act of 1954, as amended (see 42 U.S.C. § 2014(y)).

DOE will provide DOL with data and information of the types described in section B.1., above, items 1-8, as needed and where such information exists, to enable DOL to adjudicate claims under the EEOICPA and to develop site profiles for use in SEM. The primary strategy for achieving such increased timeliness and cost-effectiveness will be to provide DOL with information and records on a process, building, employment group, or facility-wide basis, which will gradually reduce, but not eliminate, the need for DOL to request information and records on a case-by-case basis for SEM.

Claims adjudication requests in the form of a Document Acquisition Request (DARs) and EE-5 employment verification requests will be processed and returned to DOL within 60 days, to the extent feasible. DOE will provide an EEOICPA POC at each Operations Center to assist DOL in expediting requests that are not received within 60 days. DOE will devise an electronic system to expedite DAR processing in order to reduce overall response times.

DOL and DOE will adhere to the guidance outlined in the OWCP/DEEOIC and DOE/HSS Security Plans that describe and establish processes for requesting data, clearance, accessing the site, and resolving security issues as they arise. The Security Plans are an effort to balance the need for protecting classified and controlled unclassified information with the need to fairly adjudicate compensation claims. Revisions to these Security Plans may be required due to changes in governmental security requirements, operational experience, or unexpected events.

DOE and DOL acknowledge that while all the material in section B.1., above, items 1-8, is potentially relevant to each claim, the actual data necessary will vary among claims. DOE and DOL also recognize that information about worker exposures will vary from site to site. The Agencies will work cooperatively to coordinate research and data retrieval activities to assist in an efficient and effective claims process.

DOE has established a Privacy Act System of Records, which includes the necessary routine uses required to carry out EEOICPA responsibilities, for the following system of record:

1. DOE-10, "Energy Employees Occupational Illness Compensation Program Act Files."

DOE has amended certain Privacy Act Systems of Records to include new routine uses required to carry out EEOICPA responsibilities for the following systems of records:

1. DOE-5, "Personnel Records of Former Contractor Employees";
2. DOE-33, "Personnel Medical Records";
3. DOE-35, "Personnel Radiation Exposure Records";
4. DOE-38, "Occupational and Industrial Accident Records";
5. DOE-71, "The Radiation Accident Registry";
6. DOE-72, "The DOE Radiation Study Registry";
7. DOE-73, "The US-DTPA Registry"; and
8. DOE-88, "Epidemiologic and Other Health Studies, Surveys and Surveillances."

While DOE will continue to provide the necessary information required to carry out EEOICPA responsibilities, DOE will seek to amend, as needed, its Privacy Act Systems of Records to include a new routine use allowing disclosure to DOL and its contractors pursuant to EEOICPA for the following systems of records and any additional systems of records if necessary:

1. DOE-2, "DOE Personnel Supervisor Maintained Personnel Records";

2. DOE-13, "Payroll and Leave Records"; and
3. DOE-51, "Employee and Visitor Access Control Records."

DOE maintains a moratorium on the destruction of records that may be useful for epidemiological purposes and under that moratorium will continue to maintain any records that are needed for establishing employment or creating site profiles for use in SEM. DOE will coordinate any status changes or requests for deviations (i.e., destruction of records under the moratorium) with DOL prior to taking any official DOE actions in this regard.

For the purpose of independently reviewing any records, information, or data that DOL determines are relevant and necessary for carrying out its responsibilities under EEOICPA, and as consistent with applicable laws and DOE security requirements, DOE will allow DOL personnel and DOL contractors with appropriate clearances, access to DOE and DOE-owned contractor-operated facilities. Consistent with applicable laws and regulations, DOE will provide DOL personnel and contractors copies of all records, information, or data deemed relevant by DOL. Based on the requirements of EEOICPA, DOE will provide copies of records, information, and data in a timely manner.

Upon request by OWCP, DOE will certify that record searches requested by OWCP have been completed. Although DOE will work to provide comprehensive responses to OWCP requests, additional information relevant to a claim may be identified at a later date. When DOE identifies such additional information, DOE will promptly both notify DOL that the new information has been found and send DOL the additional information.

2. Classification of Documents and Security Clearances

DOE and its contractors will continue to perform timely classification reviews of documents and data necessary for DOL to carry out its responsibilities under EEOICPA in accordance with DOE policy, and the DOE and DOL Security Plans developed for EEOICPA. DOE will provide to DOL an estimated timeframe for completing any necessary classification reviews of requested documents. DOL personnel and contractors who have appropriate security clearances will, in the course of carrying out their responsibilities under EEOICPA, be permitted to review classified and controlled documents and data to identify those that are needed to carry out DOL responsibilities under EEOICPA and construct the SEM database. DOE will, in a timely manner, declassify, downgrade the classification, or redact the classified or otherwise controlled information in all documents and data to DOL that have been requested for use in case adjudication. DOL and DOE have established procedures to address documents and data that cannot be declassified, but may be necessary to complete adjudication of claims or site profiles for use in SEM. DOE will assist DOL personnel and contractors in obtaining appropriate security clearances. DOE will endeavor to release site-specific information to allow DOL to increase the amount of site information and the number of facilities that can be placed on the SEM website for public viewing and comment with a goal to have all facilities with enhanced information available to the public within Fiscal Year 2011.

3. Protection of Personally Identifiable Information

Information determined to be PII must be protected in accordance with relevant statutes, OMB guidelines, and DOE regulations and policies. Some DOE requirements are promulgated through DOE departmental orders, manuals and guides, which are available at **http://www.directives.doe.gov/**.

DOE has established requirements for the protection of PII in accordance with the Privacy Act of 1974 and OMB requirements. Specifically, PII information provided by the U.S. Government or other U.S. Government contractors for use in the execution of work under this MOU must be protected in accordance with 10 C.F.R. part 1008, "Records Maintained on Individuals (Privacy Act)", DOE Order 206.1, "Department of Energy Privacy Program", DOE M 470.4-2A, "Physical Protection", DOE M 470.4-4A, "Information Security Manual", DOE M 205.1-8, "Cyber Security Incident Management Manual", and DOE M 205.1-5, "Cyber Security Process Requirements Manual."

For this MOU, all parties agree that PII must be protected in accordance with the Privacy Act of 1974, OMB guidance, and each Agency's departmental policies. Transmission of data between Agencies will be in accordance with agreed-upon protocols, which will, at a minimum, include the following requirements:

1. Data stored on removable media (CD, DVD, USB Flash Drives, etc.) must be protected using encryption products that are certified pursuant to FIPS 140-2.

2. Passwords used in conjunction with FIPS 140-2 certified encryption must meet the current DOE password requirements.

3. Transmission of removable media must be sent by express overnight service with signature and tracking required.

4. Data files containing PII that are being sent by e-mail must be encrypted with FIPS 140-2 certified encryption products.

5. Passwords used to encrypt data files must be sent separately from the encrypted data file; i.e., separate e-mail, telephone call, or separate letter.

6. Web sites established for the submission of information that includes PII must use FIPS 140-2 certified encryption methods.

7. In addition to other reporting requirements, the loss, or suspected loss, of PII must be reported immediately upon discovery to:

(a) For DOE, the DOE-CIRC (**www.doecirc.energy.gov**) and DOE/HSS' Office of Information Management, and DOL/OWCP/ DEEOIC.

(b) For DOL, the DOL PII Breach Response Team (**http://www.dol.gov/owcp/procedure-manual/privacy.pdf**) and the DOE/HSS' Office of Information Management.

4. Provision of Other Technical Assistance to DOL

DOE will provide assistance to DOL, upon request, in identifying and accessing information needed to adjudicate claims and to complete SEM, for claims received from current and former employees, and survivors of DOE facilities. DOE will assist DOL in ongoing efforts to make expanded SEM data available to the public. Other technical assistance will be provided to DOL, upon request, to aid in the development of strategies to identify and prioritize for study DOE facilities where significant contamination may have remained after activities relating to the production of nuclear weapons were discontinued.

5. Timeliness of Provision of Information and Technical Assistance

DOE recognizes that time is of the essence in terms of providing information to DOL. DOE will provide all requested information to DOL in a timely and efficient manner. If the requested information cannot be provided in a timely manner, DOE will provide whatever portion of the requested information is available, as well as an estimate of when the remaining information will be produced. Following transmission of this estimate, DOE will continue to work to provide all requested information to DOL as quickly as possible, unless DOL notifies DOE that the remaining information is not required.

6. DOE Former Worker Communication and Assistance

DOE will work with its current and former worker community and other relevant parties to facilitate access to information and records needed by DOL. DOE will review its contracts and amend them as necessary to ensure that DOE contractors collect and maintain information needed to carry out DOE obligations under EEOICPA, and that DOL and its agents have the necessary access to relevant information, on a need-to-know basis. DOE will coordinate with DOL to maintain a Joint Outreach Task Group to identify claimants that may be eligible for benefits under EEOICPA, assist in disseminating information on programmatic changes, hold Town Hall meetings to educate potential claimants, or for other purposes, as necessary.

7. Facilities Research

DOE is responsible for maintaining and updating the covered facilities website. DOE will designate AWE sites as covered facilities, and prepare the Federal Register notices for publication with regard to these sites in consultation with DOL and in accordance with dates set by DOL. DOE will make its best efforts to meet the dates set by DOL in responding to requests to conduct research on these facilities, as the need arises, or as indicated by DOL.

8. Official Point of Contact

DOE designates the following individual as the official point of contact for this MOU:

Name:	Patricia Worthington, PhD
Title:	Director, Office of Health and Safety, HS-10
Address:	Office of Health, Safety and Security U.S. Department of Energy 1000 Independence Avenue, SW Washington, DC 20585
Telephone:	(301) 903-5926
Fax:	(301) 903-3445

VI. DISPOSITION OF RECORDS

Each party is to be responsible for the disposition of records in its possession in accordance with its own records retention authorities.

VII. RESPONDING TO FREEDOM OF INFORMATION ACT REQUESTS

Information exchanged pursuant to this MOU that is responsive to a valid request under the Freedom of Information Act (FOIA), 5 U.S.C. 552, will be returned to the originating Agency for a determination regarding release.

VIII. DURATION

This MOU will be effective for a period not to exceed three (3) years from the date of execution; however, it will be reviewed annually to ensure that the business need and details remain current.

IX. DISPUTE RESOLUTION

Any disputes under this agreement shall be resolved in the manner prescribed in Treasury Financial Manual, Volume I, Bulletin No. 2007-03, Attachment 1, sec. VII, as prescribed by OMB memo M-07-03.

X. EFFECT OF AGREEMENT

This agreement is strictly for internal management purposes for each of the Parties. It is not legally enforceable and shall not be construed to create any legal obligation on the part of either Party. This Agreement shall not be construed to provide a private right or cause of action for or by any person or entity.

Nothing in this agreement shall be interpreted as limiting, superseding, or otherwise affecting either agency's normal operations or decisions in carrying out its statutory or regulatory duties. This agreement does not limit or restrict the parties from participating in similar activities or arrangement with other entities.

This agreement does not itself authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligations.

This agreement may be modified or amended in writing upon the consent of all Parties.

This agreement will be executed in full compliance with the Privacy Act of 1974.

This agreement shall be effective as of the date of the last signature below.

XI. MODIFICATION OR CANCELLATION

This MOU, or any of its specific provisions, may be cancelled or amended by mutual, written agreement of both parties at any time. Cancellation of this MOU by one of the parties may be accomplished by a 90-day advance written notification by either DOL or DOE to the other party.

XII. RESPONSIBLE OFFICIALS

U.S. DEPARTMENT OF LABOR	U.S. DEPARTMENT OF ENERGY
By: Rachel P. Leiton	By:
Rachel P. Leiton Director Division of Energy Employees Occupational Illness Compensation	Patricia Worthington, PhD Director Office of Health and Safety
Date: 1/20/11	Date: 1/21/11