



The Secretary of Energy
Washington, DC 20585

November 2, 2000

MEMORANDUM FOR ADMINISTRATOR, NATIONAL NUCLEAR
SECURITY ADMINISTRATION (NNSA)
HEADS OF NON-NNSA DEPARTMENTAL
ELEMENTS WITH FEDERAL UNIONS
LABOR RELATIONS OFFICIALS
OFFICIALS OF FEDERAL UNIONS

FROM: BILL RICHARDSON *BR*

SUBJECT: DEPARTMENT-WIDE PARTNERSHIP COUNCIL

On January 4, 2000, I issued a memorandum that was intended to improve Federal labor-management relations at the Department through the formation and revitalization of local partnerships. During the first quarter of the calendar year, I reported to the Office of Management and Budget (OMB) on the status of these partnerships. The report provided to OMB indicated that, although some progress has been made in pursuing partnerships at DOE, much more needed to be done to achieve the goals set forth in the President's Executive Order on Labor Management Partnerships in the Federal government.

I continue to believe that partnerships with our federal union representatives can significantly enhance the Department's ability to accomplish its missions. Within this framework, we can jointly identify and craft solutions to the problems facing us. In a forum that relies on constructive dialogue using an interest based approach and consensus decision making, we can move beyond our traditional roles and traditional bargaining.

On October 30, 2000, I met with representatives of Departmental Elements and Field Installations, and Officials of Federal Employee Unions to sign the Department of Energy's Partnership Council Agreement (copy attached). During this meeting, it was recommended to me, by the Council, that I (1) make an election, on behalf of the agency, to negotiate permissive topics outlined in 5 U.S.C. 7106(b)(1) issues that have Department-wide impact within the context of partnership; and (2) direct my subordinate officials to do the same. I have decided to accept these recommendations.

I am, therefore, directing the senior management of the Department to ensure that, at the local levels of recognition, we provide our employees, who are officials of federal unions, an opportunity for pre-decisional involvement in workplace issues affecting bargaining unit employees, including negotiations on the 7106 (b)(1) topics



(the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work) within the context of labor-management partnership arrangements. In this regard, I am further directing senior management to establish mutually agreeable alternative dispute resolution (ADR) processes regarding impasses over (b)(1) issues. Any disputes involving these matters that are referred to me will be resolved by me and/or my successor as described in the Department's Partnership Charter.

Further, to maintain the momentum that you have established, I am requesting that you identify mechanisms to be used at the local level to implement this election within sixty (60) days following the date of this memorandum. Actual negotiations of (b)(1) issues will not be pursued until ADR processes have been mutually developed. In addition, you are to submit a report on your plans to revise existing partnership agreements or arrangements to implement the above requirements, including training, ADR process development, within the 60 day transition period to the Director of Management and Administration. During this transition period, I recommend that you schedule and jointly plan to attend training in alternative dispute resolution, interest based bargaining, and any other mutually acceptable training. Finally, you are to conduct an evaluation of your efforts with this initiative not later than December 29, 2000. This information will also assist the agency with its' reporting requirements to OMB and OPM, for the 2001 yearly reports. No separate action is required of any NNSA organization at this time. Since the Headquarters organizations are covered by a single collective bargaining agreement, the Director of Management and Administration has the responsibility for the preparation of this report and all related actions in conjunction with the implementation of this memorandum.

Lastly, I will take this opportunity to clarify the intent and role of the Department of Energy's Partnership Council. This Council is not intended to replace or override the authority of management and labor at the local level of recognition. The Council's Charter is guidance and not a prerequisite to the resolution of impasses over (b)(1) issues. The Charter does not preclude other mutually agreed upon approaches to resolve (b)(1) disputes. I am confident that both management and union are creative enough at the local level of recognition to develop their own procedures with which they both can succeed.

I believe that pre-decisional involvement and negotiation of permissive topics in the context of partnership will further the Department's goals of mission accomplishment and work life improvement. Based upon the approach outlined in this memorandum, I am hopeful we will improve our ability to address the many critical issues facing the Department of Energy and its workforce.

DEPARTMENT OF ENERGY
Washington, DC 20585

CHARTER
DEPARTMENT-WIDE PARTNERSHIP COUNCIL

- Official Title: The title of the organization shall be "The Partnership Council."
- Purpose: The purpose of the Council shall be to design, implement, and maintain within the Department of Energy a cooperative, constructive, and collaborative working Partnership between the various Federal employee unions of the Department and Departmental management to achieve common goals.
- Goals and Objectives: In the spirit of Partnership, the parties enter into this agreement for the purpose of building and maintaining a cooperative and collaborative relationship to better accomplish the Department's mission, address the needs of the workforce, and deliver the highest quality goods and services to the American people.
- Scope: The Partnership Council will:
 - 0 Discuss, in a pre-decisional context, Department-wide personnel policies, practices, and working conditions, as well as any other issues that impact mission accomplishment, efficiency/effectiveness of operations, and the quality of employee work life.
 - 0 Negotiate 7106(b)(1) issues that have Department-wide impact within the context of partnership.
 - 0 Resolve any impasses over (b)(1) issues through consensus. The Council will, over time, explore ways of resolving any disputes over (b)(1) issues through mutually agreed upon processes, i.e. mediation, facilitation, etc. If the matter remains unresolved, it will be referred to the Secretary for final resolution. The decision of the Secretary shall be binding on all matters referred by the Council.
 - 0 Serve as a model for local partnership councils in effectively demonstrating the value of labor-management collaboration and pre-decisional involvement, as well as interest-based bargaining over 7106(b)(1) topics. This includes providing encouragement and guidance to local partnership councils by publicizing and promoting principles, processes, and techniques for carrying out such activities for consideration by local parties.
 - 0 Discuss any local issue referred to the Council, by both local management and labor at the level of recognition, and issue recommendations, provided the Council agrees, by consensus, to address the issue.

This Council is not intended to replace or override the authority of management and labor at the local level of recognition. Specifically, the Council's actions cannot override local collective bargaining agreements or other locally-negotiated agreements, including partnership agreements, where they either exist or may be revised or established.

Local Partnership Councils may:

- 0 Mutually agree on their own procedures for addressing impasses on (b)(1) negotiations, using the following as a "guide". In the absence of such mutually agreed to process, the following will apply:

If the parties reach impasse on (b)(1) issues, the union and management partners may mutually agree to binding arbitration. If management and union cannot reach a joint decision to proceed to binding arbitration, then one party can unilaterally decide to go to non-binding arbitration and/or mediation. The results of the non-binding decision will be referred back to the parties for consideration. If the matter is not resolved, then it can be referred to the Departmental Council which will make a recommendation to the parties. If one of the parties does not agree with the recommendation(s) of the Council, the Council will submit it's recommendation to the Secretary for final resolution. The decision of the Secretary shall be binding on all parties subject to the dispute.

- Official to whom the Council Reports: The Council shall report to the Secretary of Energy or his/her designee.
- Membership: The Council shall be made up of one representative from each recognized bargaining unit Local, Chapter or Council as appropriate with corresponding representation from management. In addition, a representative from the Secretary's Office shall have permanent membership on the Council.
- Training:
 - The Council shall establish a Training Subcommittee which will:
 - Oversee the training program for Council members.
 - Recommend appropriate training for Council members to the full Council for their consideration.
 - Arrange for training programs for Council members
 - Periodically assess the training needs of the Council members.
 - The Council shall approve training for Council members.
 - Council members shall be trained in basic tools of cooperative partnership efforts such as:
 - Overcoming the Barriers to Partnership
 - Team Building
 - Group Problem Solving Techniques
 - Alternate Dispute Resolution
 - Interest Based Bargaining
 - Other training as recommended by the Training Subcommittee.
 - Training Costs:
 - Subject to the availability of funds, Departmental management will pay the costs of training courses Council members attend.
 - Training should to the maximum extent possible draw upon low cost or no cost resources of the Federal Labor Relations Authority, the Office of Personnel Management, the Federal Mediation and Conciliation Service, the Department of Labor, and other organizations and agencies as appropriate.
- Amendments to Charter: Amendments to the Charter are permitted at any time.

Proposed amendments may be raised by any Council member and amendments to be ratified are to be made by consensus of the Council members and are to be in writing.

- Evaluation:

- The Council shall establish an Evaluation Subcommittee which will:
 - Evaluate the Partnership process and the effect of the Partnership on the Department.
 - Recommend to the Council the method or methods to be used in conducting the evaluation.
 - Beginning at the end of the first year and annually thereafter, prepare a written report of findings and submit it to the Council for approval by consensus.
- The Council will submit the approved report to the Secretary and other appropriate officials as determined necessary.

- Administrative Matters: The following issues, factors, and conditions relate to the operation and functioning of the Council:

- The Council shall have Co-Chairpersons (one union and one management official) who shall be elected by the full Council and serve for a period of one year.
- The Council shall appoint an Executive Committee which shall:
 - Determine the frequency, location, and timing of its meetings and the subsequent timing of meetings of the full Council.
 - Establish a slate of candidates for the positions of Co-Chairpersons and refer this listing to the full Council prior to an election.
 - Receive input from the Secretary's Office and other Departmental Elements and Labor Unions on items or issues for consideration by the full Council.
 - Prepare reports and position proposals or statements for consideration by the full Council.
 - Establish the agenda for the full Council and send it to each Council member prior to a meeting of the full Council.
 - Submit reports and position statements approved by the Council to the Secretary and other high level management officials of the Department as determined to be appropriate.
 - Establish sub-committees and/or task forces as needed.
 - Arrange for an "official" recorder and an external (to DOE), trained facilitator for each meeting of the full Council.
 - Determine the location of meetings of the full Council. Meetings are to be held in differing locations to include Headquarters and field offices.
 - Perform other duties as required.
- The Council shall meet in person on a quarterly basis.
- Union officials shall be on official time while attending authorized training and meetings of the full Council, the Executive Committee, and sub-committees as appropriate. This time for these purposes shall not be considered as part of, or counted against, any other official time authorized by local collective bargaining

agreements.

- Departmental management will pay the travel and per diem costs of union officials to attend authorized training and meetings of the full Council, Executive Committee, and sub-committees as appropriate.
- A publicly accessible Web site will be developed and will include the Charter, list of members (with phone numbers, email, addresses, etc.), meeting minutes, annual reports, and any other appropriate material. This site will be hosted and maintained by DOE HQ.

● Authority of Council:

- 0 The authority of the Council is established under the E.O. 12871 and is subject to other provisions of this Charter.
- 0 The DOE Secretary is responsible for carrying out the provisions of the EO.
- 0 The Council is authorized to make decisions as they relate to the internal functioning of the Council, including the issues it chooses to address. In all other respects, the deliberations of the Council will be in the form of recommendations, which will be forwarded to the entity deemed appropriate by the Council (e.g., The Secretary, local partnership councils, etc.).
- 0 All Council decisions and deliberations shall be reached by consensus to the maximum extent practical. The Council shall consider the need to develop procedures, including amendments of this Charter, to address situations in which consensus is not reached.