

# Memorandum

Albuquerque Operations Office

DATE: JUN 22 1994

REPLY TO  
ATTN OF: OCC:DAASUBJECT: Use of DOE Financial Assistance Awards to Purchase Services and Materials  
Under Funds-In Agreements (FIA)

TO: Robert Y. Lowrey, Director, Work for Others Technologies Division

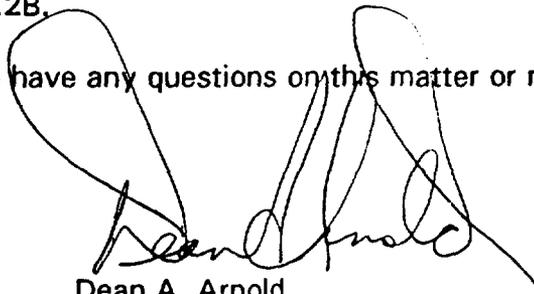
This is in regard to your request for a legal opinion on the use of funds from a DOE financial assistance award to a non-federal entity or sponsor. Thereafter, the non-federal entity desires to purchase from DOE services or materials of a DOE Facility Contractor under DOE Order 4300.2B, Non-Department of Energy Funded Work. Paragraph 5.1. of the order states:

Non-DOE Funded Work is any work performed for non-DOE entities that utilize DOE facilities or contractor personnel and is not directly funded in whole or in part by DOE.

You have indicated that AL is presently denying potential non-federal sponsors who wish to use funds from a DOE financial assistance award the opportunity to enter into FIAs to secure the desired services or materials. One such program is the Small Business Innovation Research (SBIR) effort, which advertises the use of DOE's national laboratories in SBIR program solicitations.

Funding under a financial assistance award becomes the property of the non-federal recipient and is to be used by the recipient as it chooses under the terms and conditions of the award. The recipient may use such funds to purchase services or materials from a variety of sources including DOE for the services and materials of its Facility Contractors. In other words, a DOE grant loses its identity upon issuance of the financial assistance award, and thus does not constitute DOE funds as envisioned in DOE Order 4300.2B.

Please call me at 845-6214 if you have any questions on this matter or require additional information.



Dean A. Arnold  
Attorney  
Office of Chief Counsel

cc:  
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R. Davidson, WFOTD