

<b>PPPL</b>	<b>PRINCETON PLASMA PHYSICS LABORATORY</b>	<b>PROCEDURE</b>	<b>No. GEN-035 Rev 1 Page 1 of 5</b>
<b>Subject:</b>  <b>Entering Into Memorandum Of Understanding (MOUs) With Foreign Entities</b>	<b>Effective Date:</b>  6/22/17	<b>Initiated by:</b>  Deputy Director for Research	
	Supersedes Rev 0 August 3, 2012	<b>Approved:</b>  Director	

**Management System (Primary): 01.00 Strategy and Management**  
**Management System Owner: Director; Deputy Director for Research**  
**Management Process: 01.08 Business Development**  
**Process Owner: Deputy Director for Research**  
**Sub-Process: 01.08.05 MOUs**  
**Sub-Process Owner: Deputy Director for Research**  
**Subject Matter Experts (SMEs): Deputy Director for Research; Deputy Director for Operations; Head of Business Operations**

### Applicability

This procedure applies to *any* written undertaking for informal, non-R&D, non-legally binding collaboration between the PPPL and a foreign partner, whatever the title of the undertaking, such as Memorandum of Understanding, Memorandum of Agreement, Statement of Intent, Letter of Intent, or Declaration of Principles (collectively, “MOUs”).

This procedure, and MOUs, do not include contractual instruments such as Strategic Partnership Projects agreements or Cooperative Research and Development Agreements (CRADA). MOUs describe the framework for cooperation and collaboration envisioned by the parties. They are not legally binding agreements, nor are they appropriate vehicles for obligating funds. MOUs may not be entered into with individuals.

### Introduction

Any MOU entered into between the PPPL and a Foreign Participant must meet the following three tests prior to execution:

- (i) align with the strategic interests and policies of the United States and PPPL;
- (ii) be legally sound and compliant with US laws and regulations; and
- (iii) be reviewed carefully to ensure that any counterintelligence considerations are addressed.

Reviews of MOUs must include PPPL Management, Princeton University Counsel, and DOE. MOU document packages that are submitted for DOE Headquarters (HQ) review must include indication, in writing, how the MOU aligns with the principles listed on Attachment 1.

MOUs with a foreign entity must be reviewed by the DOE at least every five years.

**Reference Documents**

DOE Policy P 485.1, FOREIGN ENGAGEMENTS WITH DOE NATIONAL LABORATORIES  
signed January 19, 2017

**Definition**

**Foreign Entity** For purposes of this Policy, “foreign entities” include: (1) any foreign government or foreign government agency or instrumentality thereof; (2) any international organization; (3) any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its territories; (4) any form of business enterprise organized or incorporated under the laws of the United States or a State or other jurisdiction within the United States which is owned, controlled or influenced by a foreign government, agency, firm, or corporation; and (5) any person who is not a citizen or national of the United States.

**PROCEDURE****RESPONSIBILITY****ACTION**

- |  |   |
|--|---|
| PPPL Employee/Initiator  | <ol style="list-style-type: none"> <li>1. Direct the initiator to the Director’s office for guidance (obtain agreement with pursuit of an MOU, check the existing MOUs, check with DOE on existing MOUs that may cover the desired agreement).             <ol style="list-style-type: none"> <li>a. Uses the Foreign MOU Checklist and Approval Form (Attachment 1) to initiate and guide the process for attaining required reviews and approvals of an MOU. The completed Foreign MOU checklist and approval form includes the MOU documentation package required by DOE Policy.</li> <li>b. Prepares a draft MOU using the PPPL Foreign MOU template (Attachment 2).</li> <li>c. Presents the draft MOU and Foreign MOU Checklist and Approval Form to the Department Head/Council Member.</li> </ol> </li> </ol> |
| Department Head /<br>Council Member to be<br>responsible for the MOU | <ol style="list-style-type: none"> <li>2. Reviews the draft MOU and ensures that it aligns with the strategic interests and policies of the United States and PPPL.</li> <li>3. Forwards the draft MOU and Foreign MOU Checklist and Approval Form to the Director of PPPL, with copies to the University Counsel, Deputy Director for Research, and Deputy Director for Operations for their timely review and advice.</li> </ol>  |

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|--|--|
| Deputy Director for Research, and Deputy Director for Operations | <p>4. Review the draft MOU and ensure that it aligns with the strategic interests and policies of the United States and PPPL.</p> <p>5. Provides comments to the responsible Department Head / Council Member and to the University Counsel.</p>   |
| University Counsel   | <p>6. Reviews the draft MOU and ensures that it is legally sound and aligns with the strategic interests and policies of the United States and PPPL.</p> <p>7. Obtains review and approval of the draft MOU and Foreign MOU Checklist and Approval Form from:</p> <ul style="list-style-type: none"> <li>• PPPL Office of Export Control</li> <li>• DOE Site Office Counsel</li> <li>• Senior Counterintelligence Officer of the PPPL</li> </ul> <p>Provides copies of the draft MOU requests (the MOU and Foreign MOU Checklist and Approval Form) to the DOE-PSO Site Office Manager.</p>  |
| DOE Site Office Manager  | <p>8. When the language of the draft MOU is acceptable to all parties and it has been approved by all necessary authorities, forwards the draft MOU and Foreign MOU Checklist and Approval Form for concurrence to the following offices:</p> <ul style="list-style-type: none"> <li>• Cognizant Secretarial Office (CSO)</li> <li>• Program Secretarial Office (PSO)</li> <li>• Office of International Science &amp; Technology Collaboration (IA-42)</li> <li>• Cognizant General Counsel Office (GC)</li> <li>• Office of Intelligence and Counterintelligence (IN)</li> <li>• Office of Nonproliferation and Arms Control (NA-20)</li> <li>• Office of Classification (AU-60), if involving potential access to or use of classified information.</li> <li>• Once concurrence has been received, forwards to the Office Director for International Cooperative Activities in the DOE Office of Policy and International Affairs: <a href="mailto:labagreements@hg.doe.gov">labagreements@hg.doe.gov</a> for approval.</li> </ul> <p>9. Forwards the MOU to the PPPL Director, when the language of the draft MOU is acceptable to all parties and all necessary authorities have approved it.</p> |
| Director   | <p>10. Performs the final review, approval and signature of the MOU.</p>   |

11. Delivers the final MOU to the Foreign Participant for approval signature.
12. Any substantive changes to the MOU must be reviewed by the Site Office Counsel prior to signing.
- Director's Office 13. Maintains the original signed MOU in the Office of the Director.
14. Forwards – within 20 days of execution of any MOU – a PDF copy of the final signed MOU to the:
  - Office of the Director for International Cooperative Activities in the DOE Office of Policy and International Affairs, at [labagreements@hq.doe.gov](mailto:labagreements@hq.doe.gov)
  - DOE-SC Senior Advisor for International Programs: [Elizabeth.omalley@science.doe.gov](mailto:Elizabeth.omalley@science.doe.gov)
  - DOE-SC Advisor for International Programs [corey.cohn@science.doe.gov](mailto:corey.cohn@science.doe.gov)
  - Princeton University Vice President for PPPL
  - DOE-PSO Site Manager
  - DOE Program Manager
  - Princeton University Counsel
  - PPPL Quality Assurance/Quality Control (QA/QC)
- QA/QC,  
Director's Office 15. Maintains the website of electronic copies of MOUs and issues periodic reminders to responsible Department Heads / Council Member to review and update or extend their MOUs. Reviews are required when: the MOUs expire per terms of the agreement, if specified in the agreement; or every five years from the effective date of the agreement.

### Training

- The Deputy Director for Research will provide a briefing to Council Members on the process and requirements of this procedure.
- This procedure will be distributed to all Supervisors for read-only-training.

**Records Requirements Specific To This Procedure**

Records Custodians must assure records are maintained as follows:

<b>Record Title</b>	<b>Record Custodian</b>	<b>Location</b>	<b>Retention Time</b>
MOU, paper copy	Director's Office	Director's Office	Various based on MOU status and acceptance. <i>Reference: Work for Others &amp; CRADAs (Section 1)</i>
MOU, electronic copy	Director's Office	<a href="#">PPPL Memoranda of Understanding (MOUs) page</a>	Various based on MOU status and acceptance. <i>Reference: Work for Others &amp; CRADAs (Section 1)</i>

**Attachments**

1. Sample PPPL Foreign MOU Checklist and Approval Form
2. Sample PPPL Foreign MOU Template
3. Frequently Asked Questions, DOE National Laboratory MOUs with Foreign Partners

Go to <http://www-local.pppl.gov/forms/MOU-Checklist-Approval-Form.docx>  
for latest version of this template.

**PPPL FOREIGN MOU CHECKLIST AND APPROVAL FORM**

**MOU TITLE** \_\_\_\_\_

**PARTNER NAME** \_\_\_\_\_

**COUNTRY NAME** \_\_\_\_\_

1	Proposed activities include collaborative R&D	<input type="checkbox"/> No <input type="checkbox"/> Yes If yes, (a) utilize SPP, CRADA or other Lab-signatory contractual instrument; or (b) contact relevant HQ Program Office for potential inclusion in DOE-signatory R&D agreement.
2	Creates a resource burden on DOE or Laboratory	<input type="checkbox"/> Yes <input type="checkbox"/> No _____
3	How does MOU provide a benefit to U.S. economy?	
4	Partnership is consistent with foreign policy and national security interests and policies of the U.S. Government - explain	
5	Alignment with the PPPL Mission (PPPL’s Mission is aligned with and part of the U.S. strategic interests and policies, thus providing benefits to the Government and Labs) - explain	
6	Export Control Review	Completed Date _____ Conducted By _____
7	Review by PPPL Management and University Counsel	Conducted By _____
8	Counter Intelligence Review	Conducted by _____ Date _____
9	DOE Site Office Counsel Review	Conducted by _____ Date _____

**Sample PPPL Foreign MOU Checklist and Approval Form**

**Attachment 1**

10	MOU is consistent with DOE goals and objectives (DOE-PSO)	<input type="checkbox"/> Yes <input type="checkbox"/> No _____
11	Relevant DOE programs have been notified	DOE-PSO _____
12	Advice from Headquarters Program Office, General Counsel, and Policy and International Affairs (per Step 9)	Requested Date _____ DOE-PSO _____
13	Foreign Language Text	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, send Department of State’s Office of Language Services, and be coordinated by IA-42.

SAMPLE



Go to <http://www-local.pppl.gov/forms/MOU-Template.docx> for latest version of this template.

## MEMORANDUM OF UNDERSTANDING

Between

**THE TRUSTEES OF PRINCETON UNIVERSITY, Princeton Plasma Physics Laboratory**

And

### I. OBJECTIVE

- What is the objective of the parties in collaborating?

### II. AREAS OF COOPERATION

- What are the research topics or areas of collaboration of the parties?

### III. FORMS OF COOPERATION

- Will the parties be exchanging:
  - electronic information or allowing inter-site access using information technology resources such as the Internet? Provide details.
  - information, data, samples? Provide details.
  - scientists and engineers? Provide details.

### IV. MECHANISMS OF COOPERATION

- E.g., will there be lead coordinators, and/or a joint steering committee which will discuss and identify new collaborative areas and elaborate on expectations and understandings?

### V. GENERAL PROVISIONS

- The MOU does not create any legally binding obligations between or among the Participants.
- Participants understand that any actual collaborative research and development (R&D) can only be conducted under an appropriate formal agreement. Therefore, Participants expect to establish a separate formal agreement on each collaborative project, if necessary.
- Each Participant should conduct the cooperation under this MOU in accordance with applicable laws and regulations to which it is subject, and international agreements to which its Government is a party.

### VI. COMMENCEMENT, MODIFICATION AND DISCONTINUATION

- Duration of the Cooperation
- MOU may be modified only by way of written agreement signed by the parties
- MOU may be discontinued at any time provided adequate written notice is provided.

### VII. SIGNATORIES

FOR:

THE TRUSTEES OF PRINCETON  
UNIVERSITY,

FOR:



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Sample PPPL Foreign MOU Template

Attachment 2

Princeton Plasma Physics Laboratory

BY \_\_\_\_\_

BY \_\_\_\_\_

TITLE \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

**FREQUENTLY ASKED QUESTIONS****DOE NATIONAL LABORATORY MOUS WITH FOREIGN PARTNERS**Frequently Asked Questions  
DOE National Laboratory MOUs with Foreign Partners

In accordance with DOE Policy 485.1, each DOE National Laboratory is required to have a process to ensure that Memoranda of Understanding (MOUs) with foreign partners meet three tests, i.e., align with U.S. strategic interests and policies, are legally sound, and address counterintelligence considerations. Each Laboratory Director is responsible for ensuring that each executed (signed) MOU is compliant with the three tests.

***What type of undertaking does this policy apply to?***

Any written undertaking for informal, non-R&D, non-legally binding collaboration between a Laboratory and a foreign partner, whatever the title of the undertaking, such as Memorandum of Understanding, Memorandum of Agreement, Statement of Intent, Letter of Intent, or Declaration of Principles. Legally binding contractual instruments such as Strategic Partnership Projects (SPP) contracts or Cooperative Research and Development Agreements (CRADAs) are already subject to prescribed statutory and regulatory requirements and DOE Orders, and therefore are outside the purview of the Secretary's memorandum.

***May collaborative R&D be conducted pursuant to an MOU?***

No; MOUs may be utilized exclusively as a framework for informal, non-R&D collaboration, such as exchanging publicly available information on the identified subject matter(s), holding meetings and workshops, and expressing the intent to engage in visits and assignments of each other's personnel to each other's facilities. An MOU may be utilized to plan for the future conduct of collaborative R&D, but the actual conduct of such R&D can be conducted only under a legally binding contractual instrument such as SPP or CRADA, or under a legally binding international agreement to which DOE is the U.S. signatory party and which is coordinated through the relevant HQ Program Office.

***What is the definition of "foreign entity"?***

For purposes of this Policy, "foreign entities" include: (1) any foreign government or foreign government agency or instrumentality thereof; (2) any international organization; (3) any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its territories; (4) any form of business enterprise organized or incorporated under the laws of the United States or a State or other jurisdiction within the United States which is owned, controlled or influenced by a foreign government, agency, firm, or corporation; and (5) any person who is not a citizen or national of the United States.

*What kind of language conveys that an MOU is informal and non-binding?*

Below are examples of terms that indicate legally binding versus non-binding intent; lab MOUs should use *only* informal, non-binding language:

<b>Language that May Indicate an Intention to be Legally Bound</b>	<b>Language that May Indicate an Intention Not to be Legally Bound</b>
Shall, will, agree, commit	Plan to, intend, expect, should
Commitment, agreement	Understanding, statement, declaration
Parties, party	Participants
Agreement, treaty, convention, protocol	Statement, arrangement, mechanism
Entry into force	Date activities commence, today's date

*Where can labs get help on creating a review and approval process for MOUs or get assistance in addressing any questions about currently pending draft MOUs?*

The Office of International Cooperative Activities within the HQ Office of Policy and International Affairs is the headquarters contact for lab MOUs.

Director - Francesca Costantino

[labagreements@hq.doe.gov](mailto:labagreements@hq.doe.gov) or [francesca.costantino@hq.doe.gov](mailto:francesca.costantino@hq.doe.gov), 202-586-6569.

Country Responsibilities:

Africa and the Middle East: Denise Clarke, [denise.clarke@hq.doe.gov](mailto:denise.clarke@hq.doe.gov), 202-586-6984  
 Americas: Denise Clarke  
 Asia: Keena Hillary, [keena.hillary@hq.doe.gov](mailto:keena.hillary@hq.doe.gov), 202-586-8156  
 Europe: Keena Hillary  
 Russia and Eurasia: Denise Clarke

*In addition to the Site Office and Headquarters Program Office, where can labs get help on questions about whether a proposed MOU meets the three tests?*

For strategic and policy questions: The relevant country desk officer within the HQ Office of Policy and International Affairs/Office of International Cooperative Activities can advise on whether a proposed MOU aligns with U.S. strategic interests and policies, along with general information on the bilateral relationship. The desk officer will coordinate with others at DOE Headquarters as necessary, e.g., the relevant Assistant or Under Secretary and the Program Office. Labs should contact the Office of International Cooperative Activities at [labagreements@hq.doe.gov](mailto:labagreements@hq.doe.gov) for referral to the relevant country desk officer.

For legal questions:

Diana Clark, Assistant General Counsel for International and National Security Programs  
[diana.clark@hq.doe.gov](mailto:diana.clark@hq.doe.gov), 202-586-3417

Advice can be requested from the relevant Headquarters offices as the MOU is being developed.

***Where can labs get copies of existing DOE and U.S. Government formal agreements and informal MOUs with foreign partners?***

The Office of International Cooperative Activities has developed the **COMmitment Management International Tracking (COMMIT)** database to archive the Department's commitments. Labs can contact [labagreements@hq.doe.gov](mailto:labagreements@hq.doe.gov) to request copies of existing agreements with foreign partners. Fully executed laboratory MOUs will be added to the COMMIT database upon receipt. The following link can be used to access the DOE Office of International Affairs database for searching international energy agreements: <https://www.energy.gov/ia/iec-documents>

***What if a foreign partner wants to sign the MOU in a foreign language in addition to English?***

In some cases, a foreign entity may require a copy of the agreement in its own language, in addition to English. In such cases, language conformance will be required to ensure the English and foreign language versions agree precisely in meaning. These services must be provided by the Department of State's Office of Language Services, and be coordinated by IA-42, with the costs for such services borne by the cognizant DOE program office or laboratory. No laboratory MOU may be signed in a foreign language until the HQ review has been completed and the State Department's Office of Language Services issues DOE an official comparison memo indicating that the two texts have the same meaning in all substantive respects.

***What do I do with the signed MOU?***

Labs should provide a PDF copy of the signed MOU within 20 days of signature to the Office of International Cooperative Activities for archiving in the Headquarters COMMIT database, so the Department has a complete record of ongoing cooperative activities. The signed MOU will also be circulated to the HQ Program Office, Office of International Cooperative Activities country desk, and Office of the General Counsel to review whether it satisfies the three tests.