

Purpose

Under the Management and Operations (M&O) contracts and Site Licence Company Agreements (SLCAs) the NDA licenses its Intellectual Property (IP) to each SLC for an annual fee and also owns the IP created and developed by the SLCs themselves. NDA has entered into a similar licence with Sellafield Limited ("Sellafield") and the NDA's other wholly owned subsidiaries. All references to SLCs in the Intellectual Property policy shall, where appropriate, also refer to NDA's wholly owned subsidiaries, including Sellafield. The purpose of the Intellectual Property Policy is to facilitate the discharge of NDA's responsibilities under the Energy Act 2004, to adopt a position on IP ownership that promotes NDA's objectives whilst encouraging innovation in the supply chain for the SLCs and in research agreements entered into by the NDA and SLCs with academic institutions. In particular, NDA is required to:

- ensure that NDA, and the SLCs on its behalf, have the necessary intellectual property rights needed to operate, whether by direct ownership or through an appropriate licence, including those needed to:
 - create a competitive and innovative sub-contracting environment;
 - share technologies, information and know-how where relevant and appropriate;
 - promote innovation in the nuclear decommissioning field;
- leverage NDA's commercial assets, including intellectual property rights, to offset the costs of decommissioning and clean-up and secure value for money in all its dealings with third parties;
- ensure that the SLCs have the intellectual property rights needed to enable the smooth transition of ownership of the SLCs by incumbent Parent Body Organisations (PBOs) to new PBOs following competitions;
- enable the IP provisions of future M&O contracts and SLCAs, or whatever contractual mechanisms are adopted, to be drafted against a clear strategy;
- avoid, or proactively manage where this is difficult to avoid, any conflicts of interest that might exist or develop as a result of ownership of SLCs by competing PBOs;
- ensure that NDA and the SLCs understand and comply with any restrictions or conditions on the use of third party IP that is licensed in for use by SLCs and that the rights of all parties are protected;
- enable the commissioning and development of supporting software and database infrastructure as considered necessary by the NDA for the management of IP.

Policy

NDA's Intellectual Property policy will seek to enable effective delivery of NDA's clean-up mission through the following principles:

The NDA will:

- own, deploy, and license its intellectual property assets in order to:
 - secure value for money;
 - foster the creation of a competitive contracting environment in which NDA has secure access to the IP needed to enable the SLCs to manage and operate their sites;
 - ensure that NDA has the rights and flexibility to competitively bid future M&O contracts and SLCAs;
 - encourage the private sector and academic institutions, whether publically or privately funded, to develop and apply new technologies, business processes and to invest in and deploy the results of research and development;
- provide clear delegated authorities to define the responsibilities of NDA and the SLCs in the management of NDA's IP portfolio;
- commission appropriate IP software infrastructure (including an IP database) recording i) material and operationally significant IP that is owned by NDA, ii) IP that has been contributed by PBOs (or licensed from third parties), iii) IP that has been developed by the SLCs and the supply chain and iv) also any restrictions on the use and licensing of such IP;
- monitor and address the strengths and weakness in the SLCs' management of NDA's IP portfolio;
- respect-third party IP rights and
- enforce its IP rights

IP Developed by the SLCs and the supply chain

In recognition of the fact that the value of ownership of Developed IP is strongly influenced by the potentially significant expense and management effort associated with the process of IP protection and any resulting commercial exploitation of the IP or any products or materials which arise from that IP, the NDA has issued IP commercial guidance documents to all SLCs on the processes to be followed when implementing the provisions of the respective M&Os and SLCAs.

The following principles will apply:

- IP created or developed by the SLCs themselves will be owned by the NDA
- IP created by the SLC's subcontractors on behalf of the SLCs (Developed IP) will continue to be owned by NDA where this is appropriate.
- in a limited number of areas NDA must be able to restrict use of Developed IP, and therefore needs to retain ownership of such IP for technology or processes relating to the following:
 - security, or any matter which could compromise the security of any NDA site or sites;
 - anything that is specifically identified from time to time by the NDA as being of key strategic interest to the NDA;

- where ownership of the Developed IP by the supply chain represents Value for Money NDA should be granted an irrevocable, unrestricted, royalty free, assignable licence to all Developed IP, including the right by the relevant SLC to sub license rights to its sub-contractors, thus minimising the risk of IP not being available for NDA use or exploitation. Each SLC will determine, in accordance with the IP commercial guidance issued by the NDA from time to time, whether it is commercially expedient and value for money to obtain wider rights across the NDA estate;
- where NDA is contracting on its own behalf with third parties, and ownership of the Developed IP by third parties represents Value for Money NDA should be granted an irrevocable, unrestricted, , royalty free and assignable licence to all Developed IP, including the right by NDA to sublicense rights to specified SLCs and their sub-contractors, thus minimising the risk of IP not being available for NDA use or exploitation.

The NDA will ensure that its contracts with the SLCs should differentiate between Developed IP and Background IP to ensure that NDA's and the supply chain's rights are adequately protected.

Background IP

Before concluding any Subcontract,, each SLCs is responsible for identifying any Background IP owned by the subcontractor or licensed to the subcontractor and which is relevant to the performance of the subcontract The SLC is then responsible for ensuring, as a minimum, that the Subcontractor grants to the SLC a non-exclusive, perpetual, irrevocable, royalty-free licence (or sub-licence) to use and exploit the relevant Background IP to the extent necessary for the performance of the subcontract and the subcontract's deliverables.

For this purpose, "**Background IP**" means any IP which is owned by, or licensed to a Subcontractor, immediately prior to the commencement of the relevant Subcontract, which relates to the deliverables under that Subcontract, is to be used in the performance of the Subcontract and which could be reasonably judged necessary by NDA, the SCL or any licensee of the NDA or SLC to use, exploit or license any deliverable under the Subcontract (including products, information, data, results and records) or Developed IP

Management of Intellectual Property

NDA will require each SLC to appoint a nominated person and an auditable process for the management of IP; this will ensure that the provisions of the SLC's sub-contracts with sub-contractors are either consistent with IP commercial guidance issued by the NDA from time to time or that instructions from NDA are expressly sought. This is to ensure that IP is identified, protected and exploited and that security and strategic issues have been fully considered prior to sub-contracts being entered into.