



ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Senior Procurement Executive of DOE. It is intended for use by procurement professions of DOE, primarily Contracting Officers, and other officials of DOE that are involved in the acquisition process. Other parties are welcome to its information, but definitive interpretations of its effect on contracts, and related procedures, if any, may only be made by DOE Contracting Officers.

Subject: DOE Policy on Contractor Defined Benefit Pension Plans Participation

References:

DOE Order 350.1, Contractor Human Resource Management Programs
Special H Clause: Employee Compensation: Pay and Benefits
FAR 31.205-6, Compensation for personal services
DEAR 970.3102-05-6, Compensation for personal services

When Is this Acquisition Letter (AL) Effective?

This Acquisition Letter (AL) is effective immediately upon issuance.

When Does this AL Expire?

This AL remains in effect until superseded or canceled.

Who Is the Intended Audience For this AL?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Heads of Contracting Activity (HCAs) and Contracting Officers (COs) responsible for administering and managing DOE/NNSA management and operating (M&O) contracts, non-M&O major site and facility contracts, and contracts that require DOE/NNSA approval of contractor compensation and benefits for reasonableness.

Who Is the Point of Contact?

DOE Contact: Robert M. Myers, Director, Contractor Human Resources Policy Division (MA-612) at 202-287-1584 or Robert.Myers@hq.doe.gov

NNSA Contact: Raymond Baca, Supervisory Contractor Industrial Relations Specialist at 505-845-6274 or Raymond.Baca@nnsa.doe.gov.

For additional information on ALs and other issues, visit our website at <http://energy.gov/management/office-management/operational-management/procurement-and-acquisition>.

What Is the Purpose of this AL?

The purpose of the AL is to provide guidance regarding a) the continued participation of DOE contractor incumbent employees in an existing defined benefit pension plan when a new contractor is awarded a DOE contract where DOE had required the outgoing contractor to become a sponsor of a defined benefit pension plan and b) permitting incumbent contractor employees to remain in their pension plans.

What Types of Contracts Are Affected by this AL?

This AL applies to M&O contracts, non-M&O major site and facility management contracts, contracts subject to DOE Order 350.1, and contracts that include provisions for DOE reimbursement of contractor human resources costs where DOE had required the outgoing contractor to become a sponsor of a defined benefit pension plan.

What Is the Background Information?

Historically, when new contractors took over operations at DOE sites, they assumed sponsorship of the incumbent contractor's employee benefit plans for the incumbent workforce. Those plans, in effect, became identified with the site rather than with a particular contractor. As part of the Department's strategy to ensure continuity of the site workforces and retain their unique skill set, the Department typically required new contractors to a) assume sponsorship of the incumbent contractor's defined benefit pension plans or comparable successor plans and b) permit incumbent employees to remain in their pension plans or comparable successor plans. This practice is commonly referred to as "if you're in, you're in." On October 15, 2015, the Secretary institutionalized this long standing practice as formal Departmental policy (see attached).

What Is the Guidance Contained in this AL?

COs should ensure that in all future solicitations where DOE had required the outgoing contractor to become a sponsor of a defined benefit pension plan, the solicitation and new contract will require (a) new contractors to sponsor and maintain those existing defined benefit pension plans (or comparable successor plans if continuation of the existing plans is not practicable) for incumbent contractor employees; and (b) permit incumbent contractor employees to remain in their defined benefit pension plans. This policy statement will neither prevent nor require employers to permit new hires to participate in such existing defined benefit pension plans, nor will it prevent amendments to those plans (or comparable successor plans). Any amendments should give due consideration to the effect of such amendments on participants eligible for retirement or nearing retirement, particularly those participants who are closer to eligibility for retirement and must be consistent with Departmental policy and written instructions.