



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: Employee Benefits Cost Study

References:

DOE Order 350.1, "Contractor Human Resource Management Programs"
DOE Corporate Clause: DOE-H-2001 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This AL remains in effect until superseded or canceled.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 (CO) 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?

Department of Energy (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.

Need More Information on ALs and FALs?

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 communicate the revisions to the contractual requirements related to the employee benefits cost study, and require COs to modify contracts, as appropriate, to reflect changes highlighted under the Section “What is the Guidance Contained in this AL.” The revisions reflect recommendations approved by the Deputy Secretary under the Regulatory Reform Initiative.

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 resource costs.

What Is the Background Information?

On January 30, 2017, the President issued Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.” In support of the Executive Order, a Regulatory Reform Task Force was established to review six focus areas, including contractor human resources requirements, for the purpose of improving laboratory/contractor efficiency and/or decreasing costs while maintaining an appropriate level of DOE oversight.

In its review of contractor human resources requirements, the Contractor Human Resources Working Group, which was established by the Regulatory Reform Task Force to analyze proposals and recommend reform to achieve the goals of Executive Order 13771, identified an opportunity to eliminate an automatic reporting requirement when the cost study established threshold is exceeded. The working group also identified opportunities to improve the employee benefit cost study comparison process by applying geographic adjustment factors and replacing the per capita comparison approach with the percent of payroll comparison approach for health related costs. These opportunities were forwarded as recommendations to the Regulatory Reform Task Force and approved by the Deputy Secretary.

The Deputy Secretary approved Benefit Cost Study recommendations are as follows:

- i. Develop geographic adjustment factors and improve the current methodology for comparison of costs of contractor health benefits to industry.
- ii. Eliminate current contractor reporting requirement that is automatically invoked when the results of the benefits cost study exceeds the established threshold. DOE will not require a corrective action plan in those situations where it is not in the best interest of the Department due to extenuating circumstances such as higher costs driven by remote locations, high risk nature of the work, other business drivers (for

example, analysis of benefit plan design indicates corrective action plan is not necessary), or because the deviation is not significant.

What Is the Guidance Contained in this AL?

The following guidance implements the recommendations approved by the Deputy Secretary. Therefore, Contracting Officers must take appropriate actions, including bilaterally modifying existing contracts, as appropriate, to incorporate the revisions to the DOE Corporate Clause DOE-H-2001 Employee Compensation: Pay and Benefits, as reflected below, no later than December 31, 2017.

(e) Pension and Other Benefit Programs

(3)(B) An Employee Benefits Cost Study Comparison, annually for each benefit tier that analyzes the Contractor's employee benefits cost for employees as a percent of payroll and compares it with the cost as a percent of payroll, including geographic factor adjustments, reported by the U.S. Department of Labor's Bureau of Labor Statistics or other Contracting Officer approved broad based national survey.

(5) When the benefit costs as a percent of payroll exceeds the comparator group by more than five percent, when and if required by the Contracting Officer, the Contractor shall submit an analysis of the specific plan costs that result in or contribute to the percent of payroll exceeding the costs of the comparator group and submit a corrective action plan if directed by the Contracting Officer.

(6) Within two years, or longer period as agreed to between the Contractor and the Contracting Officer, of the Contracting Officer acceptance of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and the cost as a percent of payroll in accordance with its corrective action plan.

(j) Changes to Pension Plans

(2) Contractors shall submit new benefit plans and changes to plan design or funding methodology with justification to the Contracting Officer for approval, as applicable (see (e)(1) above). The justification must:

(A) demonstrate the effect of the plan changes on the contract net benefit value or percent of payroll benefit costs,

(B) provide the dollar estimate of savings or costs, and

(C) provide the basis of determining the estimated savings or cost.

As part of this action, the Contracting Officer should review the contract to ensure that these revisions do not conflict with other provisions of the contract.