

CHAPTER 24

MINOR CONSTRUCTION

1. INTRODUCTION

- a. **PURPOSE:** A minor construction project is a construction project not specifically authorized by law and for which the total cost does not exceed the minor construction threshold, currently \$20 million. This includes projects also referred to as General Plant Projects (GPPs), Institutional General Plant Projects (IGPPs), and Accelerator Improvement Projects (AIPs). This chapter provides the Department's policy on cost limitations, budgetary notifications, funding, cost allocation, and accounting for minor construction projects.
- b. **LEGAL AUTHORITIES:** Sections 642 and 647 of the DOE Organization Act (42 U.S.C. §§ 7252, 7257); section 4701 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended (50 U.S.C. § 2741); section 306 of Division B, Title III of the Energy and Water Development and Related Agencies Appropriations Act, 2012 (50 U.S.C. § 2743a); section 310 of Division C, Title III of the Omnibus Appropriations Act, 2009. Additional legal authorities are cited in this chapter.
- c. **APPLICABILITY:** This policy applies to all Departmental elements and contractors, including the National Nuclear Security Administration (NNSA)¹. This policy applies to all DOE minor construction projects, including those funded by both Defense and non-Defense authorized funds. This policy does not apply to leases of property, land-only acquisitions, purchases of capital assets, or construction performed by DOE and DOE contractors for Strategic Partnership Projects (SPP)².

2. POLICY AND REQUIREMENTS

a. Cost Limitations.

- (1) A minor construction project's total cost may not exceed the minor construction threshold, currently \$20 million. The total cost includes all direct costs incurred in the construction activity and indirect costs allocated to the project in accordance with applicable Cost Accounting Standards (CAS) and the contractor's approved CAS Disclosure Statement.
- (2) The construction design, including architectural and engineering services, in connection with any proposed minor construction project may not exceed \$2 million

¹ DOE O 534.1B, "Accounting"

² DOE O 481.1D, "Strategic Partnership Projects"

unless specifically authorized by law³.

- (3) A minor construction project must have a clear project definition, be complete, and fulfill the intended need without additional expenditures above the approved funding level. Minor construction projects may not be incremental segments of larger projects or other minor construction projects.
- (4) If anticipated cost increases will cause the estimated total cost of an approved minor construction project to exceed the \$20 million threshold:
 - Contractor must immediately notify the contracting officer and the responsible Federal Program Official(s) of the anticipated cost increase, and
 - Contractor must defer additional work that would exceed the \$20 million threshold until the responsible Federal Program Official(s) notifies the Office of the Chief Financial Officer (OCFO) Office of Budget (Budget) through the cognizant program office.
 - The cognizant program office will coordinate requests for additional funding with OCFO Budget. OCFO Budget may provide additional funding through a reprogramming or a request for a line item in the Department's budget authorizing project construction above \$20 million.

b. Notification of Minor Construction Projects.

- (1) **In-Cycle Notification.** DOE provides in-cycle notifications of minor construction projects to Congress via the annual budget request process. DOE must notify Congress of a minor construction project with an estimated total cost greater than \$5 million and wait 15 days before proceeding⁴. DOE is also required to provide an annual report to Congress on such projects⁵. To meet these requirements, the OCFO collects this information as part of the Department's annual budget request.
- (2) **Out-of-Cycle Notification.** At the time the estimated total cost of a minor construction project that was not previously identified in the Department's annual budget request exceeds \$5 million, the cognizant program office must notify OCFO Budget. OCFO Budget will notify Congress as required⁶ and also notify the Office of Management and Budget (OMB)⁷.
 - **OCFO Review.** OCFO Budget will review the minor construction project out-of-cycle notification and provide applicable follow-up questions within 5 business days of receipt. OCFO Budget will notify Congress and OMB as

³ 50 U.S.C. 2746(b)

⁴ Pub. L. 111-84, div. C, Section 3118(c)

⁵ 50 U.S.C. 2743(b)

⁶ Pub. L. 111-84, div. C, Section 3118(c) and 42 U.S.C. 5821

⁷ OMB Circular A-11, Section 22.3, and specific request by OMB Energy Branch

appropriate⁸. A minor construction project may begin after OCFO Budget informs the cognizant program office that:

- For projects funded in whole or in part with Defense authorized funds (050 funds), a period of 15 calendar days has elapsed after the date of Congressional notification.
- For projects funded with non-Defense authorized funds, the OCFO Budget has notified OMB.

(3) Cost Growth Notification. To maintain flexibilities Congress has granted, avoid OMB restrictions on apportionments and/or the budget process, and provide OCFO information to support Departmental financial management, the cognizant program office will:

- For minor construction projects whose original estimated total costs were below \$5 million, provide a quarterly report to OCFO Budget of those minor construction projects whose estimated total costs subsequently exceeded \$5 million during the quarter.
- For minor construction projects whose original estimated total costs were below \$10 million, provide a quarterly report to OCFO Budget of those minor construction projects whose estimated total costs subsequently exceeded \$10 million during the quarter.
- For each minor construction project with a revised estimated total cost that exceeds the \$20 million minor construction threshold, immediately provide a report explaining the reasons for the cost variation to OCFO Budget⁹.

Program Offices that currently provide Congress and/or OMB with status reports on minor construction projects will continue to do so in the current format and periodicity. Program Offices must notify the OCFO Budget of their current minor construction reporting practices and provide copies of status reports prior to sending them to OMB and/or Congress.

c. Minor Construction Project Funding. Obligations on a DOE contract must be sufficient to cover the total estimated cost of minor construction projects in the year the minor construction projects are initiated. An exception to the full funding requirement is when, in accordance with OMB Circular A-11 Section 31.5 and subject to OMB approval, planning and design activities occur and are fully funded in a year prior to initiation of construction activities, and construction activities are initiated and fully funded in a subsequent year. In those specific circumstances, separate funding of these distinct activities in two different fiscal years satisfies the

⁸ Pub. L. 111-84, div. C, Section 3118(c) and 42 U.S.C. 5821

⁹ 50 U.S.C. 2743(c) requires cost variation reporting to Congressional committees.

full funding requirement, and in those circumstances the combined amounts of funding for the planning and design activities and funding for construction activities comprise the total estimated cost of the minor construction project.

d. Allocation of Minor Construction Project Costs.

(1) Allocation of Costs for Direct Funded Minor Construction Projects. Allocate the costs of minor construction projects to the final cost objectives established for the direct funded minor construction projects.

(2) Allocation of Costs for Indirect Funded Minor Construction Projects.

- Use applicable Cost Accounting Standards (CAS) to account for costs of minor construction projects that are allocated through indirect rates. Applicable standards usually include:
 - CAS 401, Consistency in Estimating, Accumulating, and Reporting Costs
 - CAS 402, Consistency in Allocating Costs Incurred for the Same Purpose
 - CAS 410, Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives
 - CAS 418, Allocation of Direct and Indirect Costs
- Allocate minor construction projects that are for the general management and administration of a business unit as a whole in accordance with CAS 410 (48 CFR 9904.410) and the contractor's approved CAS Disclosure Statement.
- Allocate the cost of other indirect minor construction projects to the benefitting programs in accordance with CAS 418 (48 CFR 9904.418) and the contractor's approved CAS Disclosure Statement.
- The contractor's CAS Disclosure Statement must clearly identify the contractor's cost allocation practices and consistently apply those practices for all costs that are incurred for the same purpose and in like circumstances. The contractor must set forth in the CAS Disclosure Statement the specific criteria and circumstances for making distinctions between the types of costs that are accounted for as direct in some circumstances and as indirect in other circumstances.

e. Accounting Requirements. The DOE Financial Management Handbook (FMH) Chapter 10, "Accounting for Property, Plant, and Equipment," provides the accounting requirements for real property. Real property constructed using minor construction funds will be accounted for in accordance with FMH Chapter 10 and related guidance as may be issued by the OCFO Office of Finance and Accounting. For example, a minor construction project with total costs above the capitalization threshold, currently \$500,000,

must be capitalized, and DOE organizations and integrated contractors must annually reconcile real property asset records in the Facilities Information Management System (FIMS) with control records in the Standard Accounting and Reporting System (STARS). DOE O 430.1C, “Real Property Asset Management,” section 4(b)(1)(b), requires DOE elements to record all planned real property acquisitions in real property planning documentation and in the FIMS Anticipated Asset Information Module (AAIM) regardless of the acquisition method or funding source.

- f. Property Accountability Requirements.** Real Property Management and Project Management requirements are in DOE O 430.1C, “Real Property Asset Management,” and DOE O 413.3B, “Program and Project Management for the Acquisition of Capital Assets.”
- 3. NONCOMPLIANCE WITH THIS POLICY:** Noncompliance with this chapter could result in increased control by OMB and/or Congress on the authorities to carry out minor construction projects. Noncompliance with legal requirements referenced in this policy could result in violations of the Antideficiency Act (31 U.S.C. §§ 1341 (a)(1)(A), 1341(a)(1)(B), 1342, 1517(a)). Additional information and reporting requirements of the Antideficiency Act are in the DOE FMH Chapter 2, “Administrative Control of Funds;” OMB Circular A-11, Section 150, “Administrative Control of Funds;” and OMB Circular A-123, “Management’s Responsibility for Enterprise Risk Management and Internal Control.”