

CHAPTER 2.4
Major Items of Equipment

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I. INTRODUCTION

I.A. PURPOSE AND SCOPE

This chapter provides the Department of Energy's (DOE or Department) policy on funding and budgetary notifications for major items of equipment (MIE). An MIE is capital equipment or capital software designed and fabricated or acquired in support of a DOE mission activity that requires budgetary notification because it meets the notification thresholds established in this chapter. See full definition in section IV.A of this chapter.

This chapter does not establish new cost accounting requirements but does summarize existing requirements (see section II.E.).

I.B. APPLICABILITY

This policy applies to all Departmental elements and contractors, consistent with the general applicability discussion in DOE Financial Management Handbook (FMH) [Chapter 1 Financial Management Handbook Overview](#). This policy applies to all MIE(s) fabricated or acquired, regardless of funding source or cost allocation methodology.

I.C. COMPLIANCE

Noncompliance with the statutory requirements for advance notification of MIEs needed at an off-site location, as specified in 42 USC 5821 and implemented by section II.A. of this policy, could result in violations of the *Anti-Deficiency Act* (31 USC §§ 1341(a)(1)(A), 1341(a)(1)(B); and 1342, 1517(a)). Additional information and reporting requirements of the *Anti-Deficiency Act* are in the DOE FMH [Chapter 2, Administrative Control of Funds](#).

II. POLICY AND REQUIREMENTS

II.A. STATUTORY BUDGETARY NOTIFICATION REQUIREMENT FOR SELECTED MIEs

II.A.1. Notification Requirement.

Advance notification to Congress is statutorily required¹ for MIEs that meet **all** the following criteria:

- II.A.1.i. Have an MIE Acquisition Cost (see IV.B of this policy) that exceeds \$2 million.
- II.A.1.ii. Are installed off of a DOE/NNSA facility (see definition at section IV.C of this policy); and
- II.A.1.iii. Are funded—wholly or in part—with funding appropriated to DOE offices that are subject to annual authorization acts (the *National Defense Authorization Act* (NDAA) and the *Intelligence Authorization Act*). These offices include the National Nuclear Security Administration (NNSA); the Office of Environmental Management; the Office of Nuclear

Energy; the Office of Environment, Health, Safety, and Security; the Office of Legacy Management; and the Office of Intelligence and Counterintelligence.

When the cost of an MIE is allocated by a DOE contractor-operated site to multiple DOE funding sources, the MIE is considered to be funded in part with funding appropriated to DOE offices that are subject to annual authorization acts.

II.A.2. Notification Content

The notification (either in-cycle or out-of-cycle) must describe the “nature, purpose, and estimated cost”² of the MIE. Specific templates for in-cycle notices will be established by the Chief Financial Officer (CFO) Office of Budget.

II.A.3. Advance Notification

Funds shall not be obligated for the acquisition or fabrication of an MIE meeting the criteria for statutory notification (section II.A.1 of this policy) unless 30 calendar days have elapsed since notification, or the committees have provided earlier written notice that the committees have no objection to the acquisition or fabrication of the MIE.

II.A.4. Committees to be Notified

The House and Senate committees on appropriations represent the “appropriate committees”³ for notification specified by statute. However, any out-of-cycle notice should also be provided directly to the House and Senate armed services committees.

II.A.5. Notification Process

II.A.5.i. In-cycle notifications for future fiscal years.

Notifications should be provided in advance through the Congressional Budget Request (in-cycle notifications) except as specified in II.A.5.ii and II.A.5.iii of this chapter.

II.A.5.ii. In-cycle notifications for the current fiscal year.

The Congressional Budget Request for the subsequent fiscal year may be used to provide notification for emergent needs identified for the current fiscal year. Funds cannot be obligated for the acquisition or fabrication of the MIE until 30 days after the Congressional Budget Justification was provided to the House and Senate appropriations committees.

II.A.5.iii. Out-of-cycle notifications for the current fiscal year.

When the need is identified for an MIE meeting the criteria for statutory notification (section II.A.1 of this policy) that has not already been included in an in-cycle notice an out-of-cycle notification may be used to satisfy the requirements of

42 USC 5821.

The notice must meet the requirements specified in paragraphs II.A.2, II.A.3, and II.A.4 of this policy. Approval of out-of-cycle notifications will be coordinated with the Office of Management and Budget (OMB) by the DOE Office of Budget consistent with current requirements in OMB Circular A-11, *Preparation, Submission, and Execution of the Budget*.⁴ The CFO Office of Budget shall respond to proposed out-of-cycle notices within five (5) business days of receipt.

II.A.6. Cost Growth Reporting

Increases to the MIE Acquisition Cost of a previously reported MIE or substantive changes in scope must be reported in the next Congressional Budget Request.

II.B. MIEs WITHOUT STATUTORY BUDGETARY NOTIFICATION REQUIREMENTS

II.B.1. Policy

There is no statutory notification requirement for MIEs that do not meet all three criteria specified in section II.A.1 of this policy.

However, as established by this policy, the planned design and fabrication or acquisition of equipment or software with an MIE Acquisition Cost exceeding \$10 million⁵ that meets the MIE definition (see IV.A of this chapter) also constitute MIEs that must be described in the appropriate Congressional Budget Request (in-cycle notifications).

II.B.2. Emergent Requirements

II.B.2.i. When no statutory notification requirement exists (as specified in II.B.1 of this policy), MIEs may be acquired without prior notification when the MIE is required to accomplish DOE mission work, but the requirement had not yet been identified when the most recent Congressional Budget Request was prepared.

II.B.2.ii. When no statutory notification requirement exists (as specified in II.B.1 of this policy), notification for emergent requirements for MIEs with an MIE Acquisition Cost exceeding \$10 million must be provided in the next Congressional Budget Request. Such notifications should describe why the requirement for the MIE was not known when the previous Congressional Budget Request was prepared.

II.B.3. Cost Growth Notification

Increases to the MIE Acquisition Cost of a previously-reported MIE must be reported in the next Congressional Budget Request.

If cost increases cause a previously unreported, but in-process MIE to exceed the \$10 million notification threshold, the MIE must be reported in the next Congressional Budget Request.

II.C. SEPARATE BUDGET REQUIREMENTS FOR MIEs AND REAL PROPERTY

II.C.1. General Policy

Budgeting for MIEs must be separated from any construction activity. MIEs represent equipment or software that is not integral to a facility or related to, designed for, or specifically adapted to the functional or productive capacity of a facility (see IV.A of this policy). Related personal property (see IV.F of this policy) shall be considered part of a construction activity for budgeting purposes (either minor construction or line-item construction, as applicable).

The determination of whether specific items of personal property are MIEs or related personal property is determined by the responsible DOE program or project management official. Consult with the Office of Asset Management (MA-50) when there are questions regarding the identification of related personal property for a specific project.

II.C.2. Use of Minor Construction Authority to Adapt or Construct Facilities for MIEs

Minor construction activities necessary to adapt or construct buildings for MIEs should follow the minor construction policy specified in DOE FMH [Chapter 2.3 Minor Construction](#). Supporting construction may include foundations, utilities, structural modifications, and/or additions to a building.⁶

As specified in DOE's minor construction policy, construction activity up to \$5 million may be performed without prior notification see DOE FMH Chapter 2.3, *Minor Construction*, section II.B.1 of.

Supporting construction activities with a cost exceeding the current minor construction threshold must be budgeted as a line-item construction project.

II.D. FULL FUNDING PRINCIPLE

II.D.1. Consistent with the full funding principle of budgeting for capital asset acquisitions contained in the OMB Circular A-11 *Supplement Capital Programming Guide*, and OMB Circular A-11 *Preparation, Submission, and Execution of the Budget* Section 31.4 *Full Funding*, Departmental Elements should request budget authority sufficient to design, fabricate, acquire, and install an MIE with an MIE Acquisition Cost less than \$250 million.⁷

Exceptions to the full funding principle must be approved by OMB in coordination with the OCFO Office of Budget. Exceptions will be granted to offices consistent with transition plans developed by the Office of Budget in coordination with OMB.

- II.D.2.** If the MIE will not be funded by one DOE appropriation but will be allocated indirectly to multiple funding sources, the MIE notification (either in-cycle or out-of-cycle, as appropriate) should clearly indicate that the MIE is institutional, thus indicating that the costs will be allocated to multiple funding sources. See section II.E. of this chapter for specific cost accounting and review requirements.

When the allocation of costs will occur over multiple fiscal years, the notice should disclose the anticipated allocation over multiple fiscal years, which may constitute an exception to the full funding principle. OMB approval of the notice, either in-cycle or out-of-cycle, represents appropriate OMB approval of the planned multi-year funding.

II.E. MIE COST ACCOUNTING REQUIREMENTS

II.E.1. Application of Cost Accounting Requirements

The cost of MIEs that benefit multiple separately funded activities may be allocated indirectly to multiple funding sources in a manner compliant with applicable cost accounting requirements.

For MIEs acquired by a contractor-operated site, the applicable standards are contractor Cost Accounting Standards (CAS), as codified in 48 Code of Federal Regulations (CFR) Chapter 99. Allocations must also be consistent with the contractor's disclosed practices and DOE implementing policy relating to contractor CAS, including DOE FMH [Chapter 15.1 DOE Application of Contractor Cost Accounting Standards](#).

Applicable CAS standards 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*

II.E.1.i. Allocate the cost of 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.

II.E.1.ii. 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.

II.E.2. CAS Disclosure Statement Requirements

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.

III. RELATED POLICIES AND REQUIREMENTS

III.A. Accounting Requirements. The DOE FMH [Chapter 10, Accounting for Property, Plant, and Equipment](#), provides the accounting requirements for capital equipment and software. The accounting requirements for capital equipment apply regardless of the funding source or cost allocation methodology applied for the acquisition of the equipment or software.

III.B. Real Property Accountability Requirements. Real Property Management accountability requirements are specified in DOE Order 430.1C, *Real Property Asset Management*. DOE Order 430.1C, Section 4.b.(1)(b) requires DOE elements to record all planned real property acquisitions in real property planning documentation and in the Facilities Information Management System (FIMS) Anticipated Asset Information Module (AAIM), regardless of acquisition method or funding source.

III.C. Personal Property Accountability Guidance. Personal property guidance is contained in DOE Guide 580.1-1A, *Personal Property*. Specific requirements are cited in DOE Guide 580.1-1A, including 41 CFR 109 and contract requirements at FAR 52.245-1 and DEAR 970.5242-1 (48 CFR 970.5242-1).

III.D. Project Management Requirements. Project Management requirements are specified in DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*, or successor policy.

IV. DEFINITIONS

IV.A. Major Item of Equipment. An MIE is capital equipment or software designed and fabricated or acquired in support of a DOE mission activity that requires budgetary notification because it meets the notification thresholds established in this chapter. MIEs represent equipment or software that is not integral to a facility or related to, designed for, or specifically adapted to the functional or productive capacity of a facility. MIE's include software that meets capitalization requirements and exceed the notification thresholds established in this chapter.

Related personal property (see IV.F of this policy) is considered part of a

construction activity.

- IV.B. MIE Acquisition Cost.** The total MIE acquisition cost includes the purchase price and all other costs incurred to bring the MIE to a form and location suitable for its intended use. When an MIE is fabricated by DOE, the MIE acquisition cost includes all direct and allocated indirect costs associated with design and fabrication, as well as the costs to bring the MIE to a form and location suitable for its intended use.
- IV.C. DOE/NNSA Facility.** DOE/NNSA facilities include buildings, structures, or locations owned, leased, or accessed according to an occupancy agreement by a DOE Federal Office, laboratory, plant, or site for mission work.⁸
- IV.D. In-Cycle Notifications.** Notifications made through the annual Congressional Budget Justification.
- IV.E. Out-of-Cycle Notifications.** Notifications made out of cycle with the Congressional Budget Justification (ad hoc notices).
- IV.F. Related Personal Property.** Property that is related to, designed for, or specifically adapted to the functional capacity of real property; removal of this personal property would significantly diminish the economic value of the real property (41 CFR 102-36.40).

V. SUMMARY OF NOTIFICATION REQUIREMENTS

| | Statutory Notifications <i>Section II.A of the Policy</i> | Non-Statutory Notifications <i>Section II.B of the Policy</i> |
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| Scope— Applicable MIEs | MIEs that meet all of the following criteria: <ol style="list-style-type: none"> 1. MIE Acquisition Cost over \$2 million; 2. Installed off of a DOE/NNSA facility; and 3. Funded or partially funded by an office subject to an annual authorization act. (section II.A.1) | All other MIEs with an MIE Acquisition Cost over \$10 million (section II.B.1) |
| Notification for Future Fiscal Years | Include in the Congressional Budget Request (paragraph II.A.5.i) | Include in the Congressional Budget Request (section II.B.2) |
| Notification for Emergent Requirements in the Current Fiscal Year | <ul style="list-style-type: none"> • Notify through the Congressional Budget Request for the following Fiscal Year—when the MIE will be initiated no sooner than 30 days after the Congressional Budget Request is provided (paragraph II.A.5.ii) • Out of cycle notice—when the MIE needs to be initiated promptly (paragraph II.A.5.iii) | Include in the next Congressional Budget Request (section II.B.3) |
| Cost Growth Notifications | Disclose cost growth in the next Congressional Budget Request (section II.A.6) | Disclose cost growth in the next Congressional Budget Request (section II.B.3) |

VI. REFERENCES

- 31 USC 1341, *Anti-Deficiency Act* (31 USC 1341(a)(1)(A), 1341(a)(1)(B); and 1342, 1517(a)).
- 41 CFR 102-36.40, *Disposition of Excess Personal Property – Definitions*
- 41 CFR 109, *DOE Property Management Regulations*
- 42 USC 5821, *Annual Authorization Acts*
- 48 CFR 970.5242-1, *Penalties for Unallowable Costs*
- 48 CFR Chapter 99, *Cost Accounting Standards*
- FAR 52.245-1, *Contractor’s responsibilities for managing the property*
- OMB Circular A-11, *Preparation, Submission, and Execution of the Budget – Section 22.3*
- DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*
- DOE Order 430.1C, *Real Property Asset Management* Section 4.b.(1)(b)
- DOE Guide 580.1-1A *Personal Property*
- DOE FMH [Chapter 1 Financial Management Handbook Overview](#)
- DOE FMH [Chapter 2, Administrative Control of Funds](#)
- DOE FMH [Chapter 2.3 Minor Construction](#)
- DOE FMH [Chapter 10, Accounting for Property, Plant, and Equipment](#)
- DOE FMH [Chapter 15.1 DOE Application of Contractor Cost Accounting Standards.](#)

VII. ACRONYMS

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| AAIM | Anticipated Asset Information Module |
| CAS | Cost Accounting Standards |
| CFO | Chief Financial Officer |
| CFR | Code of Federal Regulations |
| DOE | Department of Energy |
| FIMS | Facilities Information Management System |
| FMH | Financial Management Handbook |
| MIE | Major Items of Equipment |

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|------|--|
| NDAA | National Defense Authorization Act |
| NNSA | National Nuclear Security Administration |
| OMB | Office of Management and Budget |
| USC | United States Code |

¹ 42 USC 5821

² The “nature, purpose, and estimated cost” is a statutory requirement in 42 USC 5821(b)(2).

³ “Appropriate Committees” referenced in 42 USC 5821(b)(2).

⁴ OMB Circular A-11 See section 22.3 of OMB Circular A-11.

⁵ The \$10 million policy threshold established in this chapter was determined by applying inflation to the \$2 million statutory threshold established in 1978.

⁶ Also noted in paragraph 69 of DOE Order 413.3B.

⁷ The threshold may vary for individual offices based on current OMB direction. Follow current direction from the DOE Office of Budget.

⁸ The statutory notification requirement in 42 USC 5821 applies to MIEs “required at locations other than installations” that are funded—wholly or in part—with funding appropriated to DOE offices that are subject to annual authorization acts (the annual *National Defense Authorization Act* and the annual *Intelligence Authorization Act*).