

**Department of Energy  
Acquisition Regulation**

**Date: March 12, 2026  
No: AL 2026-03**



# ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA. It is intended for use by the procurement professionals of DOE, primarily Contracting Officers, and other officials of DOE that participate in the acquisition process. Other parties are welcome to its information, but definitive interpretation of its effect on DOE solicitations, contracts, Awards, and other related procedures and actions may only be made by DOE Contracting Officers.

**Subject: Implementation of the Consolidated Appropriations Act, 2026, Division B (Energy and Water Development and Related Agencies Appropriations Act, 2026), Title III and Title V of Pub. L. No. 119-74; and Division E (Financial Services and General Government Appropriations Act, 2026), Title VII of Pub. L. No. 119-75.**

**References:**

Energy and Water Development and  
Appropriations Act, 2026,  
Division B, Pub. L. No. 119-74

Title III, Sections 301, 302, 303,  
307, 308 and Title V, Section 501 and  
503

Consolidated Appropriations Act, 2026,  
Division E (Financial Services and General  
Government Appropriations Act, 2026),  
Pub. L. No. 119-75

Title VII, Sections 735, 738, 741  
742, 743, 744, and 745  
743, 744, and 745

Consolidated Appropriations Act,  
2016, Pub. L. No. 114-113

Division D, Title III, Section 306.

**When is this Acquisition Letter (AL) effective?**

The statutory provisions addressed in this AL were effective as of January 23, 2026, for Pub. L. No. 119-74 and February 3, 2026, for Pub. L. No. 119-75.

**When does this AL expire?**

This AL is in effect for fiscal year (FY) 2026. This AL and all previous ALs on appropriations will be archived after the end of the applicable AL and a new AL on appropriations is issued. Generally, the guidance will remain in effect when obligating dollars appropriated under that applicable appropriation Act. Please request assistance from your local General Counsel for applicability after the end of a fiscal year.

**Who is the point of contact?**

DOE questions regarding this AL should be sent to the Contract and Financial Assistance Policy Division at [DOE\\_OAPMPolicy@hq.doe.gov](mailto:DOE_OAPMPolicy@hq.doe.gov).

NNSA questions regarding this AL should be sent to the Acquisition Policy and Oversight Division, Policy & Oversight Branch (NA-PAS-111), at (505) 845-5639.

Questions regarding Entity of Concern (Section 307) should be sent to the Office of Research Technology and Economic Security (RTES) (IA-63) at [RTESOfficeInternal@hq.doe.gov](mailto:RTESOfficeInternal@hq.doe.gov).

**Who is the intended audience?**

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Contracting Officers. Any reference in this guidance to the DOE should be understood to include the NNSA, unless otherwise indicated.

**What is the purpose?**

The purpose of this AL is to provide information and guidance regarding the Department of Energy's (DOE or Department) implementation of Commerce, Justice, Science; Energy and Water Development; and Interior and Environmental Appropriations Act, 2026, Division B (Energy and Water Development and Related Agencies Appropriations Act, 2026), Title III and Title V, Pub. L. No. 119-74; and Consolidated Appropriations Act, 2026, Division E (Financial Services and General Government Appropriations Act, 2026), Title VII, Pub. L. No. 119-75. (hereinafter collectively referred to as the "2026 Consolidated Appropriations Act")

The Congressional Notification requirements of Pub. L. No. 119-74, Division B, Title III, Sections 301(b) and 301(c) will be addressed in a separate AL.

**What types of actions are affected by this AL?**

This AL applies to all DOE and NNSA solicitations and contract actions including task and delivery orders funded with fiscal year 2026 appropriated funds.

**What guidance is included in this AL?**

**Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, 2026, Pub. L. No. 119-74, Division B – Energy and Water Development and Related Agencies Appropriations Act, 2026**

**Title III – Department of Energy – Energy Programs**

- I. Section 301(a) Unfunded Requests for Proposals**
- II. Section 301(c) Multiyear Award Funding for DOE—Energy Programs and Section 306 Multiyear Award Funding for DOE—Energy Programs—Science (From Section 306 of Division D of the 2016 Act)**
- III. Section 302 Construction of High-hazard Nuclear Facilities**
- IV. Section 303 Independent Cost Estimate (ICE) for Critical Decision (CD)-2 and CD-3 DOE O 413.3B Construction Projects**
- V. Section 306 Strategic Petroleum Reserve Sales**
- VI. Section 307 Entity of Concern**
- VII. Section 308 Admittance to a Nuclear Weapons Production Facility.**

**Title V – General Provisions**

- VIII. Section 501 Lobbying Restrictions**
- IX. Section 503 Computer Network Restrictions**

**Consolidated Appropriations Act, 2026, Pub. L. No. 119-75, Division E – Financial Services and General Government Appropriations Act, 2026**

**Title VII – General Provisions-Government-Wide**

- X. Section 735 Prohibition to Require Contractor Disclosure of Political Contributions**
- XI. Section 738 Reporting on Conference Spending**
- XII. Section 741 Prohibition on A-76 Studies**
- XIII. Section 742 Confidentiality Agreements Prohibiting Whistleblower Activities**
- XIV. Section 743 Prohibition on Funding for Certain Nondisclosure Agreements**
- XV. Section 744 Unpaid Federal Tax Liability**
- XVI. Section 745 Felony Criminal Violations**

**NOTE: The congressional notification requirements of Section 301(b) and 301(c) will be addressed in a separate AL.**

**I. SECTION 301(a) UNFUNDED REQUESTS FOR PROPOSALS**

**What is the law?**

301. (a) No appropriation, funds, or authority made available by this title for the Department of Energy shall be used to initiate or resume any program, project, or activity or to prepare or initiate Requests For Proposals or similar arrangements (including Requests for Quotations, Requests for Information, and Funding Opportunity Announcements) for a program, project, or activity if the program, project, or activity has not been funded by Congress.

**What is the scope of this requirement?**

Section 301(a) in Title III of Division B of the 2026 Consolidated Appropriations Act requires that funds appropriated by the Act not be used to prepare or initiate RFPs or similar arrangements (including request for quotations, requests for information and funding opportunity announcements) for a program, project or activity if the program, project or activity has not been funded by Congress.

**What procedures need to be followed to implement this requirement?**

Before preparing or initiating a RFP or similar arrangements (including request for quotations or requests for information) in support of a program, project or activity, the Contracting Officer shall work with the program office and the program budget office officials to ensure the program or project has been funded by Congress.

**II. SECTION 301(c) MULTIYEAR AWARD FUNDING FOR DOE—ENERGY PROGRAMS AND SECTION 306 MULTIYEAR AWARD FUNDING FOR DOE – ENERGY PROGRAMS---SCIENCE (FROM SECTION 306 OF DIVIISION D OF THE 2016 ACT)**

**What is the law?**

The Department of Energy may not, with respect to any program, project, or activity that uses budget authority made available in this title under the heading “Department of Energy—Energy Programs”, enter into a multiyear contract, award a multiyear grant, or enter into a multiyear cooperative agreement unless—

(1) the contract, grant, or cooperative agreement is funded for the full period of performance as anticipated at the time of award; or

(2) the contract, grant, or cooperative agreement includes a clause conditioning the Federal Government’s obligation on the availability of future year budget authority and the Secretary notifies the Committees on Appropriations of both Houses of Congress at least 3 days in advance.

The Consolidated Appropriations Act, 2016, provided that none of the funds made available under the heading “Department of Energy—Energy Programs—Science” in this **or any subsequent Energy and Water Development and Related Agencies appropriations Act for any fiscal year** may be used for a multiyear contract, grant, cooperative agreement, or Other Transaction (OT) Agreement of \$1,000,000 or less unless the contract, grant, cooperative agreement, or Other Transaction Agreement is funded for the full period of performance as anticipated at the time of award.

### **What is the scope of this requirement?**

Section 301(c) of Division B of the 2026 Consolidated Appropriations Act requires multiyear contracts, grants, or cooperative agreements awarded with budget authority or funds appropriated by the 2024 Act under the heading “Department of Energy—Energy Programs” must be funded for the full period of performance as anticipated at the time of award; or the contract, grant, or cooperative agreement include a clause conditioning the Federal Government’s obligation on the availability of future year budget authority **and** the Secretary notifies the Committees on Appropriations of both Houses of Congress at least 3 days in advance.

Furthermore, Section 306 of Division D of the 2016 Act requires that multiyear contracts, grants, cooperative agreements, or Other Transaction Agreements of \$1,000,000 or less awarded **with funds appropriated by the 2016 Act or any subsequent Energy and Water Development and Related Agencies appropriations Act for any fiscal year** under the heading “Department of Energy—Energy Programs—Science” must be funded for the full period of performance as anticipated at the time of award.

### **What procedures need to be followed to implement this requirement?**

Contracting Officers awarding multiyear contracts, grants, or cooperative agreements with budget authority or funds appropriated by the 2026 Consolidated Appropriations Act under the heading “Department of Energy—Energy Programs” must ensure that the funds for the full period of performance as anticipated at the time of award are available prior to award and obligated at award **or** the contract, grant, or cooperative agreement includes a clause conditioning the Federal Government’s obligation on the availability of future year budget authority **and** the Secretary notifies the Committees on Appropriations of both Houses of Congress at least 3 days in advance of award.

Furthermore, Contracting Officers awarding multiyear contracts, grants, cooperative agreements, or Other Transaction Agreements of \$1,000,000 or less **with funds appropriated by the 2016 Act or any subsequent Energy and Water Development and Related Agencies appropriations Act for any fiscal year** under the heading “Department of Energy—Energy Programs—Science” must ensure that the funds for the full period of performance, as anticipated at the time of award, are available prior to award and obligated at award.

“Multiyear contract” or “Multi-year contract”, as defined at FAR 17.103, means a contract for the purchase of supplies or services for more than 1, but not more than 5, program years. A multiyear contract may provide that performance under the contract

during the second and subsequent years of the contract is contingent upon the appropriation of funds, and (if it does so provide) may provide for a cancellation payment to be made to the contractor if appropriations are not made. The key distinguishing difference between multiyear contracts and multiple year contracts is that multiyear contracts, defined in the statutes cited at FAR 17.101, buy more than 1 year's requirement of a product or service without establishing and having to exercise an option for each program year after the first.

“Multiyear grant or multiyear cooperative agreement award” or “Multi-year grant or multi-year cooperative agreement award” means a new or renewal award with a project period greater than 12 months, excluding continuation amendments.

### **III. SECTION 302 CONSTRUCTION OF HIGH-HAZARD NUCLEAR FACILITIES**

#### **What is the law?**

302. None of the funds made available in title III of this Act shall be used for the construction of facilities classified as high-hazard nuclear facilities under 10 CFR Part 830 unless independent oversight is conducted by the Office of Enterprise Assessments to ensure the project is in compliance with nuclear safety requirements.

#### **What is the scope of this requirement?**

Section 302 of Division B of the 2026 Consolidated Appropriations Act applies to all solicitations and awards of DOE contracts that include the construction of facilities classified as DOE nuclear facilities (hazard category 1 or 2) under 10 CFR Part 830 under which funds are made available by this Act. This requirement applies to subcontract actions, including subcontracts under an M&O prime contract using these appropriated funds.

#### **What procedures need to be followed to implement this requirement?**

When funding the construction of DOE nuclear facilities (hazard category 1 or 2), the CO shall work with the designated federal project director (FPD) to ensure that the Office of Enterprise Assessments performs the required independent review of the project, and should obtain a copy of the review(s) prior to obligating funds under the 2026 Consolidated Appropriations Act.

### **IV. SECTION 303 INDEPENDENT COST ESTIMATE (ICE) FOR CRITICAL DECISION (CD) CD-2 AND CD-3 DOE ORDER 413.3B CONSTRUCTION PROJECTS**

#### **What is the law?**

303. None of the funds made available in this title may be used to approve critical decision-2

or critical decision-3 under Department of Energy Order 413.3B, or any successive departmental guidance, for construction projects where the total project cost exceeds \$100,000,000 until a separate independent cost estimate has been developed for the project for that critical decision.

**What is the scope of this requirement?**

Section 303 of Division B of the 2026 Consolidated Appropriations Act applies to all DOE solicitations and awards that include DOE Order (DOE O) 413.3B construction work where a project with a total project cost (TPC) exceeds \$100,000,000. No funds are available until a separate independent cost estimate (ICE) has been developed for the project for CD-2 or CD-3. This requirement applies to subcontract actions, including subcontract under an M&O prime contract using these appropriated funds.

**What procedures need to be followed to implement this requirement?**

For a DOE O 413.3B construction project with a total project cost (TPC) or high end cost range exceeding \$100,000,000, the CO shall work with the designated FPD to ensure that an independent cost estimate (ICE) led by the Office of Project Management Oversight and Assessments is conducted prior to submission of CD-2 or CD-3 for approval by the Project Management Executive.

**V. SECTION 306 STRATEGIC PETROLEUM RESERVE SALES**

**What is the law?**

306. None of the funds made available by this Act may be used to draw down and sell petroleum products from the Strategic Petroleum Reserve (1) to any entity that is under the ownership, control, or influence of the Chinese Communist Party (CCP); or (2) except on condition that such petroleum products will not be exported to the People's Republic of China (PRC).

**What is the guidance?**

Contracting Officers must ensure that adequate methods of verification are included in all awards to ensure that petroleum products are not sold to entities under CCP influence and will not be exported to the PRC.

**VI. SECTION 307 ENTITY OF CONCERN**

**What is the law?**

307. (a) None of the funds made available by this Act may be used by the Secretary of Energy to award any grant, contract, cooperative agreement, or loan of \$10,000,000 or greater to an entity of concern as defined in section 10114 of division B of Public Law 117-167.

- a. The Secretary shall implement the requirements under subsection (a) using a risk-based approach and analytical tools to aggregate, link, analyze, and maintain information reported by an entity seeking or receiving such funds made available by this Act.
- b. This section shall be applied in a manner consistent with the obligations of the United States under applicable international agreements.
- c. The Secretary shall have the authority to require the submission to the agency, by an entity seeking or receiving such funds made available by this Act, documentation necessary to implement the requirements under subsection (a).
- d. Chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”), shall not apply to the implementation of the requirements under this section.
- e. The Secretary and other Federal agencies shall coordinate to share relevant information necessary to implement the requirements under subsection (a).

### **What is the guidance?**

Section 10114(a)(3) of the CHIPS and Science Act, Pub. L. 117-167, states:

*(a)(3) ENTITY OF CONCERN.—The term “entity of concern” means any entity, including a national, that is—*

- (A) identified under section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note; Public Law 105–261);*
- (B) identified under section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note; Public Law 116–283);*
- (C) on the Entity List maintained by the Bureau of Industry and Security of the Department of Commerce and set forth in Supplement No. 4 to part 744 of title 15, Code of Federal Regulations;*
- (D) included in the list required by section 9(b)(3) of the Uyghur Human Rights Policy Act of 2020 (Public Law 116–145; 134 Stat. 656); or*
- (E) identified by the Secretary, in coordination with the Director of the Office of Intelligence and Counterintelligence and the applicable office that would provide, or is providing, covered support, as posing an unmanageable threat— (i) to the national security of the United States; or (ii) of theft or loss of United States intellectual property.*

Prior to awarding a contract of \$10M or more with FY26 funds or executing modifications to existing contracts that are \$10M or more or executing modifications that increase the value of the award to \$10M or more with FY26 funds, COs must review the active lists below (links provided for convenience) to confirm that no contractors appear on the lists and document the contract file accordingly:

(A) There are no entities named pursuant to section 1237(b) of the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999." The final notice can be found by visiting the [Department of Defense Federal Register Notice issued on June 28, 2021](#).

(B) [Entities identified under section 1260H](#) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note; Public Law 116– 283);

(C) [The Entity List maintained by the Bureau of Industry and Security of the Department of Commerce](#) and set forth in Supplement No. 4 to part 744 of title 15, Code of Federal Regulations;

(D) [The list required by section 9\(b\)\(3\) of the Uyghur Human Rights Policy Act](#) of 2020 (Public Law 116–145; 134 Stat. 656); or

(E) For the lists identified by the Secretary of Energy, in coordination with the Director of the Office of Intelligence and Counterintelligence and the applicable office that would provide, or is providing, covered support, as posing an unmanageable threat— (i) to the national security of the United States; or (ii) of theft or loss of United States intellectual property, contact the RTES Office at [RTESOfficeInternal@hq.doe.gov](mailto:RTESOfficeInternal@hq.doe.gov).

## **VII. SECTION 308 ADMITTANCE TO A NUCLEAR WEAPONS PRODUCTION FACILITY**

### **What is the law?**

308. None of the funds appropriated or otherwise made available by this Act may be used to admit any non-U.S. citizen from Russia or China to any nuclear weapons production facility, as such term is defined in section 4002 of the Atomic Energy Defense Act (50 U.S.C. 2501), other than areas accessible to the general public, unless 30 days prior to facility admittance, the Department of Energy provides notification to the Committees on Appropriations and Armed Services of both Houses of Congress.

### **What is the scope of this requirement?**

Section 308 applies to all DOE nuclear weapons production facilities of DOE National Laboratories.

**What procedures need to be followed to implement this requirement?**

Contracting Officers must ensure that no later than 30 days prior to any scheduled facility admittance, members of the Committees on Appropriations and the Armed Services of both the House and Senate are notified. Notification should be performed and tracked via email and the DOE Office of Congressional and Intergovernmental Affairs (CI) should be coordinated with and included in any such communications.

**VIII. SECTION 501 LOBBYING RESTRICTION****What is the law?**

501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913.

**What is the scope of this requirement?**

Section 501 of Division B of the 2026 Consolidated Appropriations Act applies to all solicitations and awards of DOE contracts under which funds appropriated under the 2026 Consolidated Appropriations Act are obligated.

**What procedures need to be followed to implement this requirement?**

The following clause shall be incorporated into solicitations and awards of contracts funded under the 2026 Consolidated Appropriations Act:

***Lobbying Restriction***

*The Contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.*

(End of Clause)

**IX. SECTION 503 COMPUTER NETWORK RESTRICTION****What is the law?**

503. (a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

Nothing in subsection (a) shall limit the use of funds necessary for any Federal, State, Tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

**What is the scope of this requirement?**

Section 503 of Division B of the 2026 Consolidated Appropriations Act applies to all solicitations and awards of DOE contracts to which funds appropriated under the 2026 Consolidated Appropriations Act are obligated.

**What procedures need to be followed to implement this requirement?**

Contracting Officers shall ensure that the contractor ensures that any computer network established or maintained using funds provided under this contract includes technical controls that block the viewing, downloading, and exchanging of pornography.

The Contractor shall:

- Implement and maintain network-level filtering or equivalent security measures to prevent access to pornographic content.
- Certify compliance with this requirement prior to network activation and upon any material changes to network configuration.
- Provide documentation of the implemented controls upon request by the Contracting Officer.

Failure to comply with this requirement may result in suspension of network operations funded under this contract and/or other remedies as provided by law and the terms of this agreement, as required with use of funds appropriated by the 2026 Consolidated Appropriations Act.

**X. SECTION 735 ANY PAYMENT FOR THE ELECTION FOR A FEDERAL OFFICE OR TO A POLITICAL COMMITTEE**

**What is the law?**

- a. None of the funds made available in this or any other Act may be used to recommend or require any entity submitting an offer for a Federal contract to disclose any of the following information as a condition of submitting the offer:
  - A. Any payment consisting of a contribution, expenditure, independent expenditure, or disbursement for an electioneering communication that is made by the entity, its officers or directors, or any of its affiliates or subsidiaries to a candidate for election for Federal office or to a political committee, or that is otherwise made with respect to any election for Federal office.
  - B. Any disbursement of funds (other than a payment described in paragraph (1))

made by the entity, its officers or directors, or any of its affiliates or subsidiaries to any person with the intent or the reasonable expectation that the person will use the funds to make a payment described in paragraph (1).

- b. In this section, each of the terms “contribution”, “expenditure”, “independent expenditure”, “electioneering communication”, “candidate”, “election”, and “Federal office” has the meaning given such term in the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.).

### **What is the scope of this requirement?**

Section 735 of Division E of the 2026 Consolidated Appropriations Act applies to all solicitations and awards of DOE contracts using funds appropriated or otherwise made available by this Act or any act providing supplementary FY 2024 appropriations.

### **What procedures need to be followed to implement this requirement?**

Contracting Officers may not recommend or require any entity submitting an offer for a Federal contract to disclose any of the above described information as a condition of submitting the offer via solicitation provision or any other communication.

## **XI. SECTION 738 REPORTING ON CONFERENCE SPENDING**

### **What is the law?**

- a. The head of any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act shall submit annual reports to the Inspector General or senior ethics official for any entity without an Inspector General, regarding the costs and contracting procedures related to each conference held by any such department, agency, board, commission, or office during fiscal year 2026 for which the cost to the United States Government was more than \$100,000.
- b. Each report submitted shall include, for each conference described in subsection (a) held during the applicable period—
1. a description of its purpose;
  2. the number of participants attending;
  3. a detailed statement of the costs to the United States Government, including--
    - A. the cost of any food or beverages;
    - B. the cost of any audio-visual services;
    - C. the cost of employee or contractor travel to and from the conference; and
    - D. a discussion of the methodology used to determine which costs relate to the conference; and
  4. a description of the contracting procedures used including--
    - A. whether contracts were awarded on a competitive basis; and
    - B. a discussion of any cost comparison conducted by the departmental

component or office in evaluating potential contractors for the conference.

- c. Within 15 days after the end of a quarter, the head of any such department, agency, board, commission, or office shall notify the Inspector General or senior ethics official for any entity without an Inspector General, of the date, location, and number of employees attending a conference held by any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act during fiscal year 2026 for which the cost to the United States Government was more than \$20,000.
- d. A grant or contract funded by amounts appropriated by this or any other appropriations Act to an Executive branch agency may not be used for the purpose of defraying the costs of a conference described in subsection (c) that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.
- e. None of the funds made available in this or any other appropriations Act may be used for travel and conference activities that are not in compliance with Office of Management and Budget Memorandum M-12-12 dated May 11, 2012 or any subsequent revisions to that memorandum.

**What is the scope of this requirement?**

Section 738 of Division E of the 2026 Consolidated Appropriations Act applies to all solicitations and awards or contracts funded by this, or any other appropriation act during fiscal year 2026.

**What procedures need to be followed to implement this requirement?**

The implementation guidance and model clause provided in Acquisition Letter 2015-09 remain applicable.

**XII. SECTION 741 PROHIBITION ON A-76 STUDIES**

**What is the law?**

None of the funds appropriated or otherwise made available by this or any other Act may be used to begin or announce a study or public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

**What is the scope of this requirement?**

Section 741 of Division E of the 2026 Consolidated Appropriations Act applies to all solicitations and awards or contracts funded by this, or any other appropriation act during fiscal year 2026.

**What procedures need to be followed to implement this requirement?**

Contracting Officers shall ensure that no A-76 studies or public-private competitions are begun or announced.

**XIII. SECTION 742 CONFIDENTIALITY AGREEMENTS PROHIBITING WHISTLEBLOWER ACTIVITIES**

**What is the law?**

- a. None of the funds appropriated or otherwise made available by this or any other Act may be available for a contract, grant, or cooperative agreement with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
- b. The limitation in subsection (a) shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

**What is the scope of this requirement?**

Section 742 of Division E of the 2026 Consolidated Appropriations Act applies to all new and existing DOE contracts. This requirement includes no dollar value threshold and does flow down to subcontractors. SF312 is the Classified Information Nondisclosure Agreement.

**What procedures need to be followed to implement this requirement?**

This requirement was implemented by FAR 3.909.

**XIV. SECTION 743 PROHIBITION ON FUNDING FOR CERTAIN NONDISCLOSURE AGREEMENTS**

**What is the law?**

- a. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other

nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: “These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”: Provided, That notwithstanding the preceding provision of this section, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

- b. A nondisclosure agreement may continue to be implemented and enforced notwithstanding subsection (a) if it complies with the requirements for such agreement that were in effect when the agreement was entered into.
- c. No funds appropriated in this or any other Act may be used to implement or enforce any agreement entered into during fiscal year 2014 which does not contain substantially similar language to that required in subsection (a).

### **What is the scope of this requirement?**

Section 743 of Division E of the 2026 Consolidated Appropriations Act applies to Government nondisclosure policies, forms or agreements and contractor nondisclosure policies, forms, or agreements in use while performing under a Government contract.

### **What procedures need to be followed to implement this requirement?**

Contracting Officers shall ensure that the following clause is inserted in all new cost reimbursement contracts and existing cost reimbursement contracts to which funding was or will be added after December 16, 2014:

### ***H.XX PROHIBITION ON FUNDING FOR CERTAIN NONDISCLOSURE AGREEMENTS***

*The Contractor agrees that:*

- a) No cost associated with implementation or enforcement of nondisclosure policies, forms or agreements shall be allowable under this contract if such*

*policies, forms or agreements do not contain the following provisions: “These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”*

*b) The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.*

*c) Notwithstanding the provisions of paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.*

## **XV. SECTION 744 UNPAID FEDERAL TAX LIABILITY**

### **What is the law?**

None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

### **What is the scope of this requirement?**

Section 744 of Division E of the Consolidated Appropriations Act, 2026 applies to all new DOE contracts funded by the Act that are to be awarded to a corporation.

**What procedures need to be followed to implement this requirement?**

This requirement is implemented by FAR 9.104.

**XVI. SECTION 745 FELONY CRIMINAL VIOLATIONS.**

**What is the law?**

None of the funds made available by this Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

**What is the scope of this requirement?**

Section 745 of Division E of the Consolidated Appropriations Act, 2024 applies to all new DOE contracts funded by the Act that are to be awarded to a corporation.

**What procedures need to be followed to implement this requirement?**

This requirement is implemented by FAR 9.104.