



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: Revision of Department of Energy (DOE) Order 350.1
and Special H Clause**

References:

DOE Order 350.1, "Contractor Human Resource Management Programs"
Special H Clause: Pay and Benefits
FAR 31.205-6 Compensation for personal services
FAR 28.307-2 Liability
DEAR 970.3102-05-6 Compensation for personal services
DEAR 970.5222-2 Overtime Management
DEAR 970.5228-1 Insurance-Litigation and Claims
DEAR 970.2201-1 Policies
DEAR 970.2803-1 Workers' Compensation Insurance

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This AL remains in effect until superseded or canceled.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?

Heads of Contracting Activity (HCAs) and Contracting Officers (COs) responsible for administering and managing Department of Energy (DOE) management and operating (M&O) contracts, non-M&O major site and facility contracts, and contracts that include DOE Order 350.1.

For the National Nuclear Security Administration (NNSA), the HCA will provide direction in a forthcoming memorandum regarding the impact of revised DOE Order 350.1 on existing contracts that include Order 350.1.

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.

Visit our website at

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 this AL is to communicate the revisions to three chapters of DOE Order 350.1, Contractor Human Resource Management Programs (approved on April 29, 2013), and require COs to modify contracts, as appropriate, to reflect changes incorporated in the newly revised H clauses that are currently in STRIPES. The revisions reflect recommendations approved under the Integrated Management System (IMS) initiative, including the transfer of contractual provisions previously contained in the Contractor Requirements Documents (CRDs), directly into the contracts no later than September 30, 2013. The effective date for the revised DOE 350.1 has been delayed to October 1, 2013, to allow sufficient time for COs to modify existing contracts. Modifications to the attached H clause revisions, for site specific conditions, are permitted with advance approval by the HCA and concurrence from the Office of Acquisition and Project Management.

What Types of Contracts Are Affected by this AL?

This AL applies to all M&O contracts, non-M&O major site and facility contracts, and other contracts that include DOE Order 350.1.

What Is the Background Information?

The Department's IMS initiative, which utilizes a risk modeling approach to determine the appropriate level of requirements and oversight, was pilot tested on the DOE Contractor Human Resource Management (CHRM) policies and program. The IMS initiative resulted in the recommendation to revise Departmental policy related to oversight of CHRM programs set forth in Chapters IV, Compensation; Chapter V, Benefits; and Chapter VI, DOE Contractor Pension Plans, of DOE Order 350.1.

DOE Order 350.1 establishes the responsibilities, requirements, and cost allowability criteria for the management and oversight of CHRM programs. The Order ensures that DOE contractors manage their human resource programs to support the DOE mission, promote work force excellence, champion work force diversity, achieve effective cost management performance, and comply with applicable laws and regulations. Chapters IV, V, and VI of this Order serve to primarily ensure that contractors develop and administer compensation and employee benefit programs that will attract and retain competent and productive employees in a cost-effective manner.

Cost allowability criteria for compensation, pensions, and welfare benefits are currently contained in several different places in DOE contracts including but not limited to the three CRDs located at the end of Chapters IV, V, and VI of DOE Order 350.1, H clauses and advance understandings on human resources. At times, the inclusion of compensation and benefit requirements in different places in the contract resulted in duplication of contractual requirements and, in some cases, conflicting requirements.

A team composed of subject matter experts reviewed DOE Order 350.1, existing contractual provisions, and regulatory drivers and determined that, in addition to the elimination of unnecessary requirements, improvements could be made by incorporating contractual requirements contained in three of the CRDs directly into the applicable contracts rather than by reference to DOE Order 350.1. These changes will eliminate the potential variance and/or duplication between the CRDs for Chapters IV, V, and VI and other contract clauses, thereby improving mission execution.

This AL does not apply to those Chapters of DOE Order 350.1 that are maintaining CRDs, nor does it change the H clauses related to those Chapters.

What Is the Guidance Contained in this AL?

Contracting Officers will have to take appropriate actions, including modifying existing contracts as appropriate to incorporate the changes reflected in the attached H clauses and to update the referenced Order in the applicable section of the Contract no later than September 30, 2013. 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. If the site seeks to deviate from the changes in the attached H clauses because of site specific conditions, the CO may make modifications to the attached H clauses with advance approval by the HCA and concurrence from the Office of Acquisition and Project Management.