



# **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 procurement professionals of DOE and NNSA, primarily Contracting Officers, and other officials of DOE and NNSA 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 NNSA Contracting Officers.

## **Subject: Implementation of the Management & Operating Subcontract Reporting Capability (MOSRC) and Special H Clause**

### **References:**

1. Consolidated Appropriations Act of 2014, PL 113-76, Division D, Title III, Section 318
2. FAR 17.6 -- Management and Operating Contracts
3. FAR 19.102 -- Size Standards
4. DEAR 970 -- DOE Management and Operating Contracts
5. DOE Deputy Secretary Memo: Implementation of the Management & Operating Subcontract Reporting Capability Initiative, dated July 10, 2015

### **When Is this Acquisition Letter (AL) Effective?**

This AL is effective immediately upon issuance.

### **When Does this AL Expire?**

This AL remains in effect until superseded or cancelled.

### **Who Is the Intended Audience For this AL?**

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Heads of Contracting Activities (HCAs) and Contracting Officers (COs) are the intended audience for this AL.

### **Who Is the Point of Contact For this AL?**

Questions concerning the MOSRC Guide, system and processes may be emailed to [HQProcurementSystems@hq.doe.gov](mailto:HQProcurementSystems@hq.doe.gov).

Questions concerning this policy may be directed to Mike Dombrowski of the Contract and Financial Assistance Policy Division, Office of Policy, Office of Acquisition Management, at

(202) 287-1828, or via email at [michael.dombrowski@hq.doe.gov](mailto:michael.dombrowski@hq.doe.gov). NNSA COs may contact Leticia Barela at (202) 586-7571, or via email at [leticia.barela@nnsa.doe.gov](mailto:leticia.barela@nnsa.doe.gov).

## **Need More Information on ALs?**

Visit <http://energy.gov/management/office-management/operational-management/procurement-and-acquisition> for information on Acquisition Letters and other policy issues.

## **What is the Purpose of this AL?**

This AL provides guidance to DOE and NNSA HCAs and COs for implementing the requirement that Management and Operating (M&O) contractors report first-tier small business subcontract transactions under their contracts.

## **What type of Contracts are affected by this AL?**

This AL applies to all DOE and NNSA M&O contracts as defined at FAR 17.6 and DEAR 970 with the exception of management and operating contracts located at the Ames Laboratory and Princeton Plasma Physics Laboratory.

## **What is the Background?**

Historically based on SBA rules, DOE has not achieved the goals established with the SBA for the participation of small businesses in DOE contracts. This performance has adversely (and erroneously) reflected on DOE's actual commitment to small businesses.

The principal factor in DOE's failure was the methodology used by SBA to apply awards to small businesses against DOE's annual goals. SBA only considered awards to small businesses at the prime contract level. As the vast majority of DOE prime contract obligations are to large M&O contractors (74% in FY14), this methodology failed to account for the significant obligations made by DOE M&O contractors to their first-tier small business subcontractors.

Congress recognized this disparity in accounting between other agencies' and DOE's contracting environments and addressed it in the Consolidated Appropriations Act of 2014, Title III, Section 318 (the Act) (Pub. L. 113-76 § 318, 15 U.S.C. § 644). The Act required that first-tier subcontract awards by DOE's M&O contractors be considered toward the annually established agency and Government-wide goals for procurement contract awards.

DOE may now use this new authority if its M&Os provide data to support the SBA's small business analysis, prime goal setting and reporting needs. This data is a subset of that which is required by the existing Federal Procurement Data System – Next Generation (FPDS-NG) to report prime contracts. The data is not currently being collected for first-tier subcontract awards made by DOE M&Os. To facilitate M&O reporting of this data, DOE is developing MOSRC. MOSRC will accept monthly submissions from the M&O contractors and provide the consolidated reports to the SBA. DOE anticipates the inclusion of these awards will have a significant positive impact on meeting DOE's small business contracting goals.



MOSRC implementation will take place in two phases: *Limited Interim Reporting* and *Full Reporting*. All M&O contractors are subject to the Limited Interim Reporting requirement. Three M&O contractors (Oak Ridge National Laboratory, the National Security Campus at the Kansas City Plant, and the National Renewable Energy Laboratory) will participate in a pilot to assist DOE in developing MOSRC to full operational implementation. In the event MOSRC is not operational by December 1, 2015, pilot participants will report their data as required in the Limited Interim Reporting phase in the same manner as all other M&O contractors. Upon attaining full operational capability, M&O contractors will be able to report their data to MOSRC once they have updated their business systems and/or processes. Business system requirements are contained in the MOSRC Guide maintained at <https://max.gov> in the “MOSRC Collaboration Center.”

### **Will the DEAR be revised to incorporate this Acquisition Letter?**

The guidance contained herein is intended to serve as interim guidance for DOE until such time as the DOE Acquisition Regulation (DEAR) is amended to implement this policy on a permanent basis.

### **What is the Guidance contained in this AL?**

COs shall bi-laterally modify their M&O contracts to include the attached model clause, “Management and Operating Contractor (M&O) Subcontract Reporting” no later than October 30, 2015. The clause provides the necessary language to require M&O contractors (to include pilot participants) to report their data during both phases of MOSRC implementation.

For fiscal year 2015 and thereafter, programs will work with their M&O contractors to capture the twenty highest dollar value first-tier small business subcontracting transactions under their contracts. These transactions shall be reported by December 1, 2015, and each subsequent year for the previous fiscal year, until MOSRC is implemented and the contractor business systems can provide the required data for submission to MOSRC. Information about what data elements to report is contained in the MOSRC Guide located at <https://max.gov>. Contractors shall report the data via the Microsoft Excel spreadsheet maintained at the same location to [HQProcurementSystems@hq.doe.gov](mailto:HQProcurementSystems@hq.doe.gov) until full reporting through MOSRC is implemented. COs and contractors will need to register with <https://max.gov> prior to accessing the “MOSRC Collaboration Center” and the resources contained therein. Anyone with a “.gov” account can easily register by clicking on the “Register Now” button in the top right corner and follow the instructions thereafter. Anyone requiring access that does not have a “.gov” account should contact [HQProcurementSystems@hq.doe.gov](mailto:HQProcurementSystems@hq.doe.gov) who will review the request and grant access as appropriate.

Attachment:

Model Clause: Management and Operating Contractor (M&O) Subcontract Reporting (Sep 2015)