



ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA

Subject: Implementation of Division F, Title I, Title II, and Title III, and Division G, Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No.113-6

References:

Consolidated and Further Continuing
Appropriations Act, 2013, Pub. L. No. 113-6

Division F, Titles I, II, and III
Division G, Section 3003

Consolidated Appropriations Act, 2012,
Pub. L. No. 112-74

Division B Title III, Sections
301(a), 301(b), 308, 310, and
Title V, Sections 501, 504, 505
Division C, Title VII, Sections
738,743

When is this Acquisition Letter (AL) effective?

The statutory provisions addressed in this AL are a continuation of the provisions effective on the enactment date of the Consolidated and Further Continuing Appropriations Act, 2013, enacted March 26, 2013 and the Consolidated Appropriations Act of 2012, enacted December 23, 2011.

When does this AL expire?

This AL remains in effect until superseded or canceled. This AL supersedes AL 2012-08.

Who is the intended audience?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA)
Contracting Officers.

Who is the point of contact?

For DOE, contact Barbara Binney of the Contract and Financial Assistance Policy Division, Office of Policy at (202) 287-1340 or at Barbara.binney@hq.doe.gov or for NNSA, contact NNSA at (202) 586-6681. For conference spending questions, contact Jason Taylor at (202) 287-1560 or at Jason.Taylor@hq.doe.gov.

Need more information on ALs?

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

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 Division F, Title I, Title II and Title III, and Division G of the Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6 (2013 Act). The 2013 Act continues requirements set forth in Division B, Title III and Title V and Division C Title VII, Consolidated Appropriations Act, 2012, Pub. L. No.112-74 (2012 Act). Congressional notifications required by Section 311 of Division B, Title III of the 2012 Act as continued by the 2013 Act are addressed in AL 2013-05.

What types of contracts 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 2013 appropriated funds. Management and Operating (M&O) contracts may be affected if construction activities are authorized.

What is the background?

This AL implements Division F, Title I, Title II and Title III, and Division G, Section 3003, Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, and the requirements it carries forward from Division B, Title III and Title V and Division C Title VII, Consolidated Appropriations Act, 2012, Pub. L. No.112-74.

What guidance is included in this AL?

Appropriations Act

- I. Section 301(a) Unfunded Requests for Proposals**
- II. Section 301(b) Congressional Notification of Multi-year Contract Award**
- III. Section 308 Construction of High-hazard Nuclear Facilities**
- IV. Section 310 Independent Cost Estimate (ICE) for Critical Decision (CD)-2 and CD-3
DOE O 413.3B Construction Projects**
- V. Section 501 Lobbying Restrictions**
- VI. Section 504 Felony Criminal Violations**
- VII. Section 505 Unpaid Federal Tax Liability**
- VIII. Section 738 Prohibition on Contracting with Inverted Domestic
Corporations**
- IX. Section 743 Any Payment for the Election for a Federal Office or to a
Political Committee**

X. Section 3003 Reporting on Conference Spending

I. SECTION 301(a) UNFUNDED REQUESTS FOR PROPOSALS

What is the law?

None of the funds appropriated by this Act may be used to initiate or resume any program, project or activity, or to initiate Requests for Proposals (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 is the scope of this requirement?

Section 301(a) of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 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.

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 is funded.

II. SECTION 301(b) CONGRESSIONAL NOTIFICATION OF MULTI-YEAR CONTRACT AWARD

It does not apply to the following: NNSA, Power Marketing Administration, and Environmental Management programs defined as an Atomic Energy Defense Activity.

What is the law?

Section 301(b) - The Department of Energy may not, with respect to any program, project, or activity that uses budget authority made available in title III of this Act under the heading “Department of Energy—Energy Programs,” enter into a multi-year contract award, a multi-year grant, or enter into a multi-year cooperative agreement unless 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 the House of Representatives and the Senate at least 14 days in advance.

Section 301(f) - (1) The Secretary of Energy may waive any requirement or restriction in this section that applies to the use of funds made available for the Department of Energy if compliance with such requirement or restriction would pose a substantial risk to human health, the environment, welfare, or national security.

(2) The Secretary of Energy shall notify the Committees on Appropriations of any waiver under paragraph (1) as soon as practicable, but not later than 3 days after the date of the activity to which a requirement or restriction would otherwise have applied. Such notice shall include an explanation of the substantial risk under paragraph (1) that permitted such waiver.

What is the scope of this requirement?

Section 301(b) of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 requires that multi-year contracts funded by the Act include in the contract a clause conditioning the obligation on the availability of future-year budget authority. It requires DOE to notify the Committees on Appropriations of the House of Representatives and the Senate at least 14 calendar days in advance of making the award. Section 301(f) permits the Secretary of Energy to waive any requirement or restriction if compliance with such requirement or restriction would pose a substantial risk to human health, the environment, welfare, or national security.

What is a multiyear contract?

Multiyear 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.

This applies to all contracts that exceed one year but no more than five years. It does not apply to indefinite delivery/ indefinite quantity (IDIQ) contracts as an IDIQ is a multiple year contract, not a multiyear contract. Nor, does it apply to construction contracts with a performance period covering two or more years that is incrementally funded. To determine if reporting is necessary, consult with local Counsel.

What procedures need to be followed to implement this requirement?

Clauses. When a new multi-year contract is contemplated, as defined at 17.103, the contracting officer shall insert the clauses FAR 52.217-2, *Cancellation Under Multi-year Contracts*, and FAR 52.232-19, *Availability of Funds for the Next Fiscal Year*, or similar language conditioning the obligation on the availability of future-year budget authority, in affected solicitations and contracts.

DOE 301(b) Reporting.

Reporting. At least 14 calendar days before awarding a multiyear contract, as defined at FAR 17.103, the Head of the Contracting Activity (HCA), or designee, shall enter the required information

in the DOE 301(b) Reporting spreadsheet on the Office of Management and Budget (OMB) MAX Information System at <https://max.omb.gov/community/display/DOE/301%28b%29+Reporting>. The first day of the 14 calendar notification period will begin with the date stated in the e-mail sent to the HCA, or designee, from the DOE HQ Budget Office confirming that the information was sent to Congress. Awards can be made on the 15th calendar day after the date stated in the confirmation e-mail. For example, the HCA, or designee, inputs the information on April 3rd and receives the confirmation e-mail from the DOE HQ Budget Office on April 4th stating that the information was sent to Congress on April 3rd, therefore the award can be made on the 15th calendar day from April 3rd which is April 17th.

Access to DOE 301b Reporting Page. The HCA, or designee, must have a MAX ID and password to access the page. If the HCA, or designee, does not already have access, they will need to register on the MAX Homepage at <https://max.omb.gov/maxportal/>. Once registered, the HCA, or designee, must send an e-mail to casey.pearce@hq.doe.gov with name and e-mail information to request access to the DOE 301b Reporting Page. Once page access is granted, the DOE 301(b) Reporting Page will appear on the person's collaboration group page. The DOE 301(b) Reporting Page includes instructions on the reporting page for inputting the required information in the spreadsheet and a point of contact for any reporting questions.

Reporting Spreadsheet. The spreadsheet is self-explanatory. One of the questions requires a detailed explanation of the special circumstances justifying the commitment of future funds. The contracting officer will need this detailed explanation from the project office. The explanation should specifically address the question of why the award is not fully funded with fiscal year 2013 and prior appropriations. Explanations of stage-gates and budget periods do not alone address this question.

End of Fiscal Year Actions. To ensure an award by September 30, 2013, the required information for the DOE 301(b) Reporting spreadsheet action shall be entered in the spreadsheet no later than 5:30 p.m. eastern time, Friday, September 13, 2013. This is the last day and time for DOE 301(b) Reporting information submission to ensure a confirmation e-mail is sent from the DOE HQ Budget Office that will allow enough time for the 14 calendar day notification period.

Waiver - Secretarial Determination of Substantial Risk to Human Health, the Environment, Welfare, or National Security. When compliance with the fourteen (14) calendar day advance notice requirement of Section 301(b) would pose a substantial risk to human health, the environment, welfare, or national security, an award may be made without such advance notification to the Committees on Appropriations of the Senate and the House of Representatives if the Secretary determines in advance to the award that any one of these conditions exists, i.e., substantial risk to human health, the environment, welfare, or national security [Section 301(f)(1)].

If an award must be made pursuant to this authority, the HCA, in coordination with the cognizant program official(s) and legal counsel, shall develop a written recommendation supporting the waiver for approval by the Secretary. The HCA shall coordinate with the Head of the Program Element through the appropriate Senior Procurement Executive for obtaining necessary waiver approval by the Secretary.

An award subject to the requirements of Section 301(b) shall not be made in advance of the Secretary's determination.

Upon approval by the Secretary, notification of the waiver and award (activity) to the Committees on Appropriations of the Senate and the House of Representatives shall be made as soon as practicable, but not later than three business (3) days after the date of the activity to which a requirement or restriction would otherwise have applied. Use the DOE 301(b) reporting spreadsheet to submit the Section 301(b) notifications to include the explanation of the substantial risk that necessitated the waiver [Section 301(f)(1)]. Maintain a copy of the signed Secretary's determination for the official record.

Note: If the Secretary delegates the authority to make these determinations, any such delegation will be issued separately from this AL.

III SECTION 308 CONSTRUCTION OF HIGH-HAZARD NUCLEAR FACILITIES

What is the law?

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 C.F.R. Part 830 unless independent oversight is conducted by the Office of Health, Safety, and Security to ensure the project is in compliance with nuclear safety requirements.

What is the scope of this requirement?

Section 308 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to all solicitations and awards of DOE contracts that include the construction of facilities classified as DOE nuclear facilities (hazard category 1, 2, or 3) under 10 C.F.R. 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, 2, or 3), the contracting officer shall work with the designated federal project director (FPD) to ensure that the Office of Health, Safety, and Security (HSS) performs the required independent review of the project and contract management for positive nuclear safety culture and resolution of nuclear safety-related design issues, and should obtain copy of the review(s). Until the contracting officer receives the HSS independent review(s), the contracting officer shall not obligate Consolidation Appropriations Act of 2013 funds for the construction of DOE nuclear facilities (hazard category 1, 2, and 3).

IV. SECTION 310 INDEPENDENT COST ESTIMATE (ICE) FOR CRITICAL DECISION (CD) CD-2 AND CD-3 DOE ORDER 413.3B CONSTRUCTION PROJECTS

What is the law?

None of the funds made available in title III of this Act 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 310 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 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 contracting officer shall work with the designated FPD to ensure that an independent cost estimate (ICE) led by the Office of Engineering and Construction Management (OECM) is conducted prior to submission of CD-2 or CD-3 for approval by the acquisition executive (AE).

V. SECTION 501 LOBBYING RESTRICTION

What is the law?

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 Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to all solicitations and awards of DOE contracts under which funds appropriated in the 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 where the expenditure of funds is made available under the Consolidated and Further Continuing Appropriations Act, 2013:

Lobbying Restriction (Consolidated and Further Continuing Appropriations Act, 2013)

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)

VI. SECTION 504 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 (or had an officer or agent of such corporation acting on behalf of the corporation 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, or such officer or agent, 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 504 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 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?

Until the Federal Acquisition Regulation implements this requirement, DOE Policy Flash 2012-40, Subject: Class Deviation – FAR 52.209-5, Certifications Regarding Responsibility Matters, issued a class deviation to implement this requirement.

VII. SECTION 505 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 505 of Division B of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 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?

Until the Federal Acquisition Regulation implements this requirement, DOE Policy Flash 2012-40, Subject: Class Deviation – FAR 52.209-5, Certifications Regarding Responsibility Matters, issued a class deviation to implement this requirement.

VIII. SECTION 738 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS

What is the law?

None of the funds appropriated by this Act or otherwise made available by this or any other Act may be used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 (6 U.S.C. 395(b)) or any subsidiary of such an entity.

What is the scope of this requirement?

Section 738 of Division C of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to all solicitations and awards of DOE contracts under which funds appropriated or otherwise made available by this or any other Act providing FY 2013 appropriations.

What procedures need to be followed to implement this requirement?

Federal Acquisition Regulation (FAR) 9.108 implements the prohibition on contracting with inverted domestic corporations and prescribes the applicable solicitation provision and contract clause. In each solicitation and contract using funds appropriated in Fiscal Year 2013, unless waived in accordance with FAR 9.108-4, the contracting officer shall use the provision 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations – Representation, and clause 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations, respectively.

IX. SECTION 743 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:

(1) 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.

(2) 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 (2 U.S.C. 431 et seq.).

What is the scope of this requirement?

Section 743 of the Consolidated Appropriations Act, 2012 as continued in Division F of the Consolidated and Further Continuing Appropriations Act, 2013 applies to all solicitations and awards of DOE contracts under which funds appropriated or otherwise made available by this Act or any act providing supplementary FY 2013 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.

X. SECTION 3003 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 2013 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 of the date of a conference held by any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act during fiscal year 2013 for which the cost to the United States Government was more than \$20,000, 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 such conference.

(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.

What is the scope of this requirement?

Section 3003 of Division G of the Consolidated and Further Appropriations Act, 2013 applies to all solicitations and awards or contracts funded by this, or any other appropriations act during fiscal year 2013.

What procedures need to be followed to implement this requirement?

When a contract contemplates expenditure of funds for a conference, the Contracting Officer must ensure that the purpose of such conference is directly and programmatically related to the purpose for which the contract was awarded (i.e. within the general scope of the contract).

The following clause shall be incorporated into solicitations and awards of all non-M&O contracts (and should be added to existing service contracts) funded by the Consolidated and Further Continuing Appropriations Act, 2013 (or any other appropriations act during fiscal year 2013):

H.XX Conference Spending Consolidated and Further Continuing Appropriations Act, 2013

The Contractor agrees that:

- a) No cost associated with conference activities shall be allowable under this contract unless the conference is directly and programmatically related to the purpose of the contract, and the specific work authorization/order/task directing the conference activities.*
- b) The Contractor shall follow the most current guidance issued by DOE concerning reporting of conference related activities and spending. The Contractor shall request and obtain approval (if \$100,000 or greater), and report all conference activities through the Conference Management Reporting and Approval Tool on the DOE iPortal at <https://iportal.doe.gov>.*
- (c) Once the Contractor has received notification that approval (if net estimated DOE expenses exceed \$100,000) or registration (if net DOE expenses are \$100,000 or less) within the Conference Management Database has taken place, the contractor shall provide documentation to the Contracting Officer of the approval or registration. Notification of approval or registration consists of evidence of one of the following--*
 - (1) The Conference Management Database Approval Comments field reflects "Approved" if DOE expenses are equal to or exceed \$100,000; or*
 - (2) The Conference Management Database Event Status field is locked and the Approval Comments field reflects "Approval Not Needed at Current Estimates," if net DOE expenses will be \$100,000 or less.*
- (d) Upon receipt of the evidence in (c) above, the Contracting Officer will provide approval for the Contractor to begin incurring costs for the conference. Contracting Officer approval to begin incurring costs does not constitute a determination of allowability of the costs.*
- (e) The Contractor and its employees as well as conference sponsors, hosts and attendees shall aggressively seek to limit costs associated with a conference. Conference expenditures shall be kept to the minimum necessary to carry out the Department's mission and must be consistent with applicable portions of the Federal Travel Regulation, and 48 CFR chapter 1, the Federal Acquisition Regulation.*
- (f) DOE will review proposed conference activities based on estimated cost and attendance to ensure federal funds are used for purposes that are appropriate, cost effective, and important to the core mission. However, only the Contracting Officer has authority to determine if the costs incurred by the Contractor are allowable, allocable, and reasonable.*
- (g) The Contractor shall establish sufficient management controls to ensure the costs related to conferences it invoices the Government for are allowable, allocable and reasonable.*
- (h) The Contractor shall ensure its conference attendees conduct themselves with the highest level of professionalism and ethical behavior consistent with that expected of DOE employees.*

(End of Clause)

The following clause shall be incorporated into solicitations and awards of new M&O contracts, and should be added to existing M&O contracts:

H.XX Conference Spending Consolidated and Further Continuing Appropriations Act, 2013 for Management and Operating Contracts (May, 2013)

The Contractor agrees that:

- a) *No cost associated with conference activities shall be allowable under this contract unless the conference is directly and programmatically related to the purpose of the contract and the specific work authorization/order/task directing the conference activities.*
- b) *The Contractor shall follow the most current guidance issued by DOE concerning reporting of conference related activities and spending. The Contractor shall request, obtain approval (if \$100,000 or greater), and report all conference activities through the Conference Management Reporting and Approval Tool on the DOE iPortal at <https://iportal.doe.gov>.*
- c) *While a conference may be approved by DOE based on estimated cost and attendance to ensure federal funds are used for purposes that are appropriate, cost effective, and important to the core mission, only the Contracting Officer has authority to determine if the costs incurred by the Contractor are allowable, allocable, and reasonable.*
- d) *The Contractor and its employees, its sponsors, hosts and attendees shall aggressively seek to limit costs associated with a conference. Conference expenditures shall be kept to the minimum necessary to carry out the Department's mission and consistent with applicable portions of the Federal Travel Regulation, and 48 CFR chapter 1, the Federal Acquisition Regulation.*
- e) *The Contractor shall ensure its conference attendees conduct themselves with the highest level of professionalism and ethical behavior consistent with that expected of DOE employees.*
- f) *The Contracting Officer will ensure conference activities are included in the Contractor's annual audit plan.*

(End of Clause)