



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: DOE Policy on the Department's Use of Benefit Value Studies

References:

DOE Order 350.1, Contractor Human Resource Management Programs
Special H Clause: Employee Compensation: Pay and Benefits
FAR 31.205-6 Compensation for personal services
DEAR 970.3102-05-6 Compensation for personal services

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This AL remains in effect until superseded or canceled.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?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Heads of Contracting Activity (HCAs) and Contracting Officers (CO) responsible for administering and managing DOE/NNSA management and operating (M&O) contracts, non-M&O major site and facility contracts, and contracts that require DOE/NNSA approval of contractor compensation and benefits for reasonableness.

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.

NNSA Contact: Raymond Baca, Supervisory Contractor Industrial Relations Specialist at 505-845-6274 or Raymond.Baca@nnsa.doe.gov.

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 the AL is to provide guidance regarding how to utilize comparative Benefit Value (Ben-Val) studies to ensure DOE/NNSA contractors continue to attract and retain the best employees while facilitating the achievement of DOE/NNSA missions in a cost effective manner.

What Types of Contracts Are Affected by this AL?

This AL applies to M&O contracts, non-M&O major site and facility management contracts, contracts subject to DOE Order 350.1, and contracts that include provisions for DOE reimbursement of contractor human resource costs.

What Is the Background Information?

On September 17, 2015, the Secretary of Energy announced the appointment of a Department-wide Task Force to provide recommendations on how to utilize comparative benefit value studies to ensure that the original intent of the benefit value comparison process is still being effectuated, i.e., to ensure that the DOE/NNSA contractors continue to attract and retain the best employees while facilitating the achievement of DOE/NNSA missions in a cost effective manner. On June 21, 2016, the Secretary approved four recommendations by the Ben-Val Study Task Force to improve the current oversight process.

What Is the Guidance Contained in this AL?

To the extent necessary, Contracting Officers should modify contracts consistent with the Secretary's approved recommendations set forth as follows:

Exclusion of Closed Defined Benefit (DB) Plans: Ben-Val studies will exclude DB plans that are closed to new entrants. Where there is an open DB plan, the requirement will remain to include that element in the comparison.

Ben-Vals and Collective Bargaining: Ben-Val studies for bargaining unit employee benefits will continue to be conducted by the contractors when contractually required. In such circumstances, however, implementation of the corrective action plan will not be required solely on the basis of a Ben-Val score of 105 percent. In this situation, the Ben-Val and corrective action plan will be used as an informational tool that, in conjunction with regional wage surveys and other relevant wage and benefit information, may assist the contractor in devising economic collective bargaining parameters for Contracting Officer approval. Contracting Officers will continue evaluating proposed economic collective bargaining parameters to ensure that parameters, under which contractors are authorized to negotiate, are reasonable.

Circumstances Where Ben-Val Studies Are Not Required:

- Where contractors provide their employees with benefits through existing corporately-sponsored (e.g., university) benefit programs.
- Where the benefits provided to represented employees are the same as the salaried employees' benefits, a separate Ben-Val study for represented employees is not required as it would not be a productive use of resources.
- Where contractors are administering benefit programs for closed sites, a Ben-Val study is not required. Instead, contractors administering benefit programs for closed sites should perform cost studies that compare relevant benefits such as health insurance, life insurance, pharmacy, dental, etc., to determine if there are more cost effective ways to deliver such benefits to retirees.

Review and Update of Comparators: Stability of the comparator companies used in the Ben-Val studies is an important component in providing useful relative data. Changing too frequently would disturb the value of the comparative data and changing too infrequently would result in outdated comparisons. Therefore, a review and update, before each contractor is required to perform its next Ben-Val study, is appropriate. In addition, contractors should periodically review and update their comparators, as needed, to ensure the most up-to-date comparisons are being conducted.