

## AUTHORITY

This Acquisition Letter is issued by the Procurement Executive pursuant to a delegation from the Secretary and under the authority of the Department of Energy Acquisition Regulation (DEAR) Subpart 901.301-70.

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## CONTENT

### CITATION

### TITLE

DEAR 970.2201

Basic labor policies

DEAR 970.3102-2(n)

Fringe benefits

- I. Purpose. The purpose of this Acquisition Letter (AL) is to (1) clarify the Department of Energy (DOE) position on the recognition of prior employment service to establish employee eligibility for vacation benefits; and (2) establish guidelines with respect to Head of Contracting Activity (HCA) authority for approving related contractor employee vacation service credit transfers between contracts covered by this AL. It applies to both employers represented by labor organizations for the purposes of collective bargaining with their employees, and those who are not so represented. DOE recognizes that any modification of the terms and conditions of employment of represented employers will require negotiations between their employees and their collective bargaining representatives.

This AL applies to DOE management and operating contracts, performance-based management contracts, and environmental restoration and management contracts that have advance understandings for personnel costs.

- II. Background. The end of the Cold War has caused DOE to restructure its mission, which has resulted in a significant restructuring of the contractor work force. Restructuring activities such as voluntary and involuntary separation programs and early retirement incentive programs adversely impact the retention of critically skilled employees within the contractor systems.

III. Guidance.

A. It is DOE policy that contractors facilitate the retention of certain critically skilled employees within the DOE management and operating, performance-based management and environmental restoration and management contractor work force system by recognizing, for the purpose of establishing appropriate vacation benefits, prior service credit earned while employed in this system.

B. Critically skilled employees are those employees whose specific recognized technical skills, knowledge, and experience in a specific field are critical to the operations or strategy of a contractor, and whose loss from the DOE contractor work force system would cause a significant negative impact on schedules, programs and/or the ability to do business.

C. DOE policy requires that aggressive intra-system recruitment be avoided because it results in unacceptable cost escalation. Therefore, if service credit for vacation is to be transferred, the position for which the critically skilled individual is being considered must:

1. be a position for which recruitment is typically difficult and expensive;

2. represent an opportunity for the newly hired individual to improve his/her professional or technical development; and

3. not be filled by a DOE contractor employee who initiated an employment search and who is coming from a non-adversely impacted DOE contractor position.

D. DOE policy also prohibits the use of prior contractor employment service credit to determine vacation benefits for individuals who have already used the same service credit as a basis for receipt from a DOE contractor:

1. severance benefit:

2. retirement incentive; or

3. retirement benefit.

E. If the parties elect to recognize such prior DOE contractor service to establish vacation eligibility, HCAs responsible for contracts covered by this AL shall:

1. negotiate advance understandings or modifications to permit recognition of prior contractor work force system service credit for vacation benefits consistent with this AL;

2. evaluate and approve contractor requests for recognition of prior DOE contractor service credit to determine vacation entitlement in advance of any service credit transfer;

3. communicate to contractors that employees' service credit amounts must be certified by the losing contractor in writing, and actual transfer of employees' accrued vacation hours and/or associated funds to employing contractors is not permitted; and

4. carefully evaluate contractor implementation of this guidance as part of overall contractor performance.

- IV. Effective Date. This AL is effective on the date of its release.
- V. Expiration Date. This AL will remain in effect until its content is incorporated, as appropriate, in regulatory or directive coverage, unless otherwise superseded or canceled.