



**Department of Energy
Acquisition Regulation**

**No. 2007-12
Date 09/20/07**

ACQUISITION LETTER

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

Subject: Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management

References:

DOE Acquisition Guide Chapter 23, Strengthening Federal Environmental, Energy and Transportation Management
FAR Part 23 - Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace
DEAR Part 923 – Environment, Conservation, Occupational Safety, and Drug-Free Workplace

When is this Acquisition Letter (AL) Effective?

This AL is effective upon issuance.

When Does this AL Expire?

This AL remains in effect until superseded or canceled.

Who is the Point of Contact?

Berta Schreiber, Office of Contract Management, at (202) 287-1368, or at Berta.Schreiber@hq.doe.gov. Visit the website at http://management.energy.gov/policy_guidance/procurement_acquisition.htm for additional information on Acquisition Letters.

What is the Purpose of this AL?

This AL prescribes requirements and guidance for contracting officers pertaining to the implementation of Executive Order (EO) 13423, Strengthening Federal Environmental, Energy, and Transportation Management.

What is the Background?

On January 24, 2007, the President signed EO 13423, Strengthening Federal Environmental, Energy, and Transportation Management. The EO sets goals in the areas of energy efficiency, acquisition, renewable energy, toxics reductions, recycling, renewable energy, sustainable buildings, electronics stewardship, motor vehicle fleets, and water conservation. The EO emphasizes the acquisition process as a tool to achieve these goals.

To ensure that the Department of Energy (DOE) leads in the implementation of the EO's goals, the Secretary of Energy announced DOE's Transformational Energy Action Management (TEAM) initiative designed to reduce energy usage across the DOE complex and to end DOE's incremental approach to saving energy (see the press release at <http://www.energy.gov/news/5300.htm>). Through the TEAM initiative, DOE intends to transform the way the DOE manages energy use in its facilities by greater emphasis on the expanded use of Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs).

One element of the TEAM initiative is to ensure that our Management and Operating (M&O) and other major site and facility contractors adopt and support the goals and objectives of the EO and DOE's TEAM initiative. To accomplish this, these goals and objectives need to be incorporated into M&O and major site and facility contracts through a two-pronged approach that: 1) revises the Statement of Work; and 2) adds an element to the Performance Evaluation and Management Plan (PEMP)/Award Fee Plan. With respect to the second component, if Performance Based Incentives (PBI) are utilized under the contract, a new or modified PBI should be issued that incorporates the language provided below.

What is the Guidance Provided by this AL?

Contracting Officers, in consultation with site Federal Energy Managers (or equivalent) and the Contracting Officer's Representative, shall modify existing M&O and major site and facility management contracts and take necessary action to immediately amend current solicitations, as discussed below, in accordance with the following:

1. Consistent with the requirements for modifying the particular contract, modify M&O and major site and facility management contracts to include the language found below. Typically, this language shall be included in the statement of work section that addresses infrastructure management responsibilities and/or infrastructure requirements.

Facility Operations and Infrastructure

The contractor shall assist DOE through direct participation and other support in achieving DOE's energy efficiency goals and objectives in electricity, water, and thermal consumption, conservation, and savings, including goals and objectives contained in Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management. The Contractor shall maintain and update, as

appropriate, its Site Plan (as required elsewhere in the contract) to include detailed plans and milestones for achieving site-specific energy efficiency goals and objectives. With respect to this paragraph, the Plan shall consider all potential sources of funds, in the following order: 1) the maximum use of private sector, third-party financing applied on a life-cycle cost effective basis, particularly from Energy Savings Performance Contracts and Utility Energy Services Contracts awarded by DOE; and 2) only after third-party financing options are evaluated, in the event that energy efficiency and water conservation improvements cannot be effectively incorporated into a private sector financing arrangement that is in the best interests of the Government, then DOE funding and funding from overhead accounts can be utilized.

2. For open solicitations for M&O and site and facility management contracts where the closing date for receipt of proposals is not imminent, solicitations shall be amended. Because of the immaterial impact of such an amendment, no extension of the closing date of the solicitation should be necessitated by the issuance of the amendment. If the closing date for receipt of proposals has passed, the solicitation shall be amended in conjunction with discussions if discussions are held. Where appropriate for all other instances, modify the contract after award in accordance with paragraph 1.

3. Revise PEMP or PBIs (or equivalent documents) for all major site and facility contracts, including M&O contracts, to add the language found below. This element shall be incorporated such that it will be in effect in the next award fee period. For contracts utilizing PBIs, the new or modified PBI shall be in effect by October 1, 2007. Language to be added:

In support of the goals of the Department of Energy's Transformational Energy Action Management (TEAM) initiative, and the goals and objectives contained in Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, the Contractor shall cooperate with federal Site Office personnel to provide full and open access to the maximum extent practicable to NNSA/DOE-contracted Energy Service Companies (ESCOs) under Energy Savings Performance Contracts (ESPCs) to facilitate on-site assessments of opportunities to improve the Site's energy efficiency, water reduction and renewable energy improvements, and shall provide advisory assistance in reviewing ESCO recommendations as directed by the Contracting Officer. The Contractor shall ensure ESCO personnel are granted access pursuant to contractual requirements; monitor ESCO activities to ensure that site safety and security requirements are adhered to; promptly provide information requested by ESCO personnel to assist them in developing viable recommendations; and, when directed by the Contracting Officer, assist the Site Office in the monitoring and execution of ESPC projects.

4. An example of how the energy efficiency language in paragraph 1 above can be incorporated into a major site and facility or M&O contract statement of work is provided below. Note that the language has been added as paragraph (4) of the Statement of Work language that was in the then-existing contract.

1.1.1 Facility Operations and Infrastructure.

The Contractor shall manage Government-owned facilities and infrastructure, both provided and acquired, to further national interests and to perform NNSA/DOE statutory missions. The Contractor shall use a performance-based approach to real property life-cycle asset management to perform overall integrated planning, acquisition, upgrades, and management of Government-owned, leased or controlled facilities and real property accountable to the Laboratory. The Contractor shall employ facilities management practices that are best-in-class and integrated with mission assignments and business operations. The Contractor's maintenance management program shall be based on best practices to maintain Government property in a manner which: (1) promotes and continuously improves operational safety, environmental protection and compliance, property preservation and cost effectiveness; (2) ensures continuity and reliability of operations, fulfillment of program requirements and protection of life and property from potential hazards; (3) ensures the condition of all assets will continuously improve over the period of performance; and (4) assists NNSA/DOE through direct participation and other support in achieving DOE's energy efficiency goals and objectives in electricity, water, and thermal consumption, conservation, and savings, including goals and objectives contained in Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management." The Contractor will maintain and update, as appropriate, its Site Plan (as required elsewhere in the contract) to include detailed plans and milestones for achieving site-specific energy efficiency goals and objectives. With respect to 1.1.1 (4), the Plan shall consider all potential sources of funds, in the following order: 1) the maximum use of private sector, third-party financing applied on a life-cycle cost effective basis, particularly from Energy Savings Performance Contracts and Utility Energy Services Contracts awarded by DOE; and 2) only after third-party financing options are evaluated, in the event that energy efficiency and water conservation improvements cannot be effectively incorporated into a private sector financing arrangement that is in the best interests of the Government, then DOE funding and funding from overhead accounts can be utilized.

Who are the points of contact for this Acquisition Letter?

For more information, contact the following:

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