



ACQUISITION LETTER

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

Subject: Contractor Executive Compensation

References:

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|--------------------|--|
| FAR 31.205-6 | Compensation for personal services |
| DEAR 970.3102-05-6 | Compensation for personal services |
| DEAR 970.5232-2 | Payments and Advances |
| NNSA BOP-003-0601 | NNSA Contractor Human Resources (CHR) Policy Guidance |

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This AL remains in effect until superseded or canceled. It replaces AL 2000-12, which remains available in Acquisition Letter Archives on the Office of Procurement and Assistance Management homepage.

Whom do you Contact for More Information?

Contact Michael Righi at Michael.Righi@hq.doe.gov or (202) 287-1337 in the Office of Procurement and Assistance Policy for questions pertaining to Federal Acquisition Regulation (FAR) or Department of Energy Acquisition Regulation (DEAR) policy.

Contact Rose Johnson at Rosemary.Johnson@hq.doe.gov or (202) 287-1552 in the Office of Contract and Resource Management for questions pertaining to approval of the salary of a top contractor management official under a management and operating (M&O) contract.

Visit our website at http://www.management.energy.gov/policy_guidance/procurement_acquisition.htm for additional information on Acquisition Letters and other policy issues.

What is the Purpose of this Acquisition Letter?

The purpose of this Acquisition Letter (AL) is to provide guidance on: (1) the compensation of contractor senior executives under all contracts; and (2) the salary of the top contractor management official under management and operating contracts and other contracts designated by the Senior Procurement Executives.

What is the Background Information?

All Contracts- Maximum Compensation Of Contractors' Senior Executives Per Office of Federal Procurement Policy (OFPP) Benchmark Compensation Amount

In the past the Department has limited the maximum **compensation** of contractors' senior executives by adhering to the FAR. Each fiscal year, OFPP would issue a "benchmark compensation amount" as the upper limit on compensation of "contractor senior executives." The Department would then disseminate this benchmark compensation amount via Policy Flash. Within this AL is a matrix tying each period from 1996 to present with the Benchmark Compensation Amount, Acquisition Letters, and Policy Flashes that applied to that period.

M&O Contracts and Other Contracts Designated by the Senior Procurement Executives- Salary Of the Top Contractor Management Official

In addition to the above, the Department has also applied restraints to the **salary** of the top contractor management official (i.e., President, General Manager, Project Manager, Laboratory Director) for M&O contracts and other contracts designated by the Senior Procurement Executives. (Salary is a component of compensation (see FAR 31.205-6 (p).) DOE will continue this practice with the exception of the \$250,000 cap on salary.

What is the Guidance Contained in this AL?

To determine the allowability of the **compensation** of all contractors' senior executives per the OFPP benchmark compensation amount:

For non-M&O contracts, see FAR 31.205-6 (p).

For M&O contracts, see DEAR 970.5232-2, DEAR 970.3102-05-6, and FAR 31.205-6 (p).

For NNSA, further follow the procedures contained in NNSA BOP 003-0601.

To approve the **salary** of the top contractor management official for M&O Contracts and Other Contracts Designated by the Senior Procurement Executives:

A. Heads of Contracting Activities in DOE and Site Office Managers in the National Nuclear Security Administration (NNSA) may approve the **salary** in accordance with the requirements in paragraph B below. If they don't adhere to the requirements below, they must obtain approval from the DOE or NNSA Senior Procurement Executive, who will consult with the Cognizant Program Secretarial Officer or the Deputy or Assistant Administrator prior to approval.

B. Heads of Contracting Activities and Site Office Managers shall:

1. Obtain an assessment of the top management official's performance and of his/her organization from the appropriate Headquarters program office prior to approval or submitting a request to the Senior Procurement Executive.
2. Notify the Cognizant Program Secretarial Officer Cognizant Deputy or Assistant Administrator at least 48 hours prior to approval.
3. Provide the final salary determination and the effective date to the DOE or NNSA Senior Procurement Executive, respectively, and to the Cognizant Program Secretarial Officer or the Cognizant Deputy or Assistant Administrator.
4. Use the following criteria when reviewing salary actions :
 - a. Not exceed industry benchmarks.
 - b. Not exceed the benchmark compensation amount for the contractor Fiscal Year (see FAR 31.205-6(p)).
 - c. If due to recruitment or promotion: limit increases to the lesser of 10 percent above the candidate's current salary or 6 percent above the prior incumbent's reimbursed salary.
 - d. If neither recruitment nor promotion; actions shall not exceed 6 percent per annum.
 - e. Except for promotions and "acting" situations; only one salary increase per individual is permitted during any twelve month period.
 - f. Be within the contractor's original salary range for the position and in accordance with the contractor's salary increase distribution program.
 - g. Require contractors to submit each salary action (including notifications) on a fully completed DOE F 3220.5, "Application for Contractor Compensation Approval."

ATTACHMENT

| <u>Period</u> | <u>Benchmark Compensation</u> <u>Amount</u> | <u>AL</u> | <u>Policy Flash</u> |
|--------------------------------|--|-----------|---------------------|
| 1. Oct. 1, 1996-Sept. 30, 1997 | \$250,000 | 97-05 | |
| 2. Jan. 2, 1998-Jan. 1, 1999 | \$340,650 | 98-07 | |
| 3. Jan. 2, 1999-Jan. 2, 2000 | \$342,986 | 99-02 | 1999-09 |
| 4. FY 2000 | \$353,010 | 2000-12 | 2000-14 |
| 5. FY 2001 | \$374,228 | 2000-12 | 2001-15 |
| 6. FY 2002 | \$387,783 | 2000-12 | 2002-18 |
| 7. FY 2003 | \$405,273 | 2000-12 | 2003-19 |
| 8. FY 2004 | \$432,851 | 2000-12 | 2004-16 |
| 9. FY 2005 | \$473,318 | 2000-12 | 2005-31 |
| 10. FY 2006 | \$546,689 | 2000-12 | 2006-34 |