



ACQUISITION LETTER

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

Subject: Safety Considerations under Awards Using American Recovery and Reinvestment Act of 2009 Funding

References:

Public Law 111-5 American Recovery and Reinvestment Act Funding
OMB Implementing Guidance – Memorandum M-09-15 dated April 3, 2009
10 CFR 1021 National Environmental Policy Act Implementing Procedures
DOE 451.1B National Environmental Policy Act Compliance Program
DEAR 970.5223-1 Integration of Environment, Safety, and Health into Work Planning and Execution
DOE M 450.4-1 Integrated Safety System Manual
10 CFR 835 Occupational Radiation Protection
10 CFR 851 Worker Safety and Health Program

When is this Acquisition Letter (AL) Effective?

This AL is effective immediately upon issuance.

When Does This AL Expire?

This AL remains in effect until superseded or canceled.

Who are the Points of Contact?

Richard Langston, Office of Procurement and Assistance Policy, MA-61, (202) 287-1339 or Richard.Langston@hq.doe.gov or for NNSA, Stephen Law, Office of Acquisition and Supply Management Office, NA-63, (202) 586-4321 or Stephen.Law@nnsa.doe.gov or David Weitzman, Office of Health, Safety and Security, HS-11, (301) 903-5401 or David.Weitzman@hq.doe.gov .

What is the Purpose of this AL?

The purpose of this AL is to provide information and guidance regarding safety considerations under awards using American Recovery and Reinvestment Act Of 2009 (ARRA) funding.

What is the Background?

The ARRA funding made approximately \$32.7 billion available for DOE projects as part of the economic recovery program. The projects will be a mix of new starts and expansions of projects already underway. There is an emphasis on projects which can be undertaken quickly. There is also an expectation that all DOE ARRA projects provide safe and healthful working conditions for its workers and that all work is conducted safely and in compliance with applicable regulations. At a minimum, all work will be accomplished in compliance with OSHA regulations. Additional Department requirements for Safety and Health are set forth in a number of Rules and Departmental directives, including 10 CFR 835 and 10 CFR 851.

What is the applicability of this AL?

This AL is applicable to all contracts where work is performed on a DOE covered workplace, as defined at 10 CFR 851.3, in furtherance of a DOE mission. All such contracts must have an approved written Worker Safety and Health Program in place prior to performance pursuant to the requirements of 10 CFR 835 and 851. Failure to comply with these requirements could lead to contract or civil penalties.

Are there expectations to this applicability?

DOE contracts using ARRA funding shall contain the following principles, which are embedded in 10 CFR 835 and 10 CFR 851:

- managers exercising responsibility for the safety and health program and workers involved in the program;
- qualified personnel systematically identifying, assessing, and mitigating hazards;
- managers demonstrating compliance with worker protection standards;
- knowledgeable personnel providing safety and health training;
- safety and health staff maintaining records to document conditions; and
- safety and health personnel and managers regularly reporting on and improving safety and health performance

What must the Contracting Officer and Contractor do to comply with these requirements?

The Contracting Officer should ensure that the contract contains DEAR clauses 952.223-72, Radiation Protection and Nuclear Criticality, if applicable, 970.5223-1, Integration of Environment, Safety, and Health into Work Planning and Execution, and that 970.5204-2 List A includes references to 10 CFR 835 and 851, and that List B includes reference to DOE M 450.4-1 Integrated Safety System Manual.

The Contracting Officer should consult with DOE worker safety and health staff to assess the adequacy of the Contractor's existing safety program in light of any new performance requirements of the ARRA duties being assigned to the Contractor. If the existing safety program is found adequate for the ARRA duties, the Contracting Officer should inform the Contractor of this finding. In instances where ARRA duties will significantly increase the Contractor's employee health and safety liability, or where there is work not anticipated under the earlier Contractor duties, the Contracting Officer should instruct the Contractor to supplement its earlier safety program and/or submit a new safety program for the new ARRA responsibilities. Specific safety program requirements are described at 10 CFR 851 Subpart C.