



**Headquarters
Policy Flash**

FLASH 2000-27

DATE: November 17, 2000
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, MA-51
Office of Procurement and Assistance Management

SUBJECT: Recent DEAR Rules

SUMMARY: This Policy Flash summarizes three recent rulemakings that revise the Department of Energy Acquisition Regulation (DEAR).

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Procurement personnel should read each of the following rulemakings in their entirety at the Federal Register Website at:

http://www.access.gpo.gov/su_docs/aces/aces140.html

1. DEAR - Costs Associated With Whistleblower Actions

This final rule (65 FR 62299, October 18, 2000) amends the DEAR to establish the Department's policy on the reimbursement of contractor settlement, award and defense costs associated with contractor employee whistleblower actions. This policy applies to the Department's cost reimbursement contractors and subcontractors with a contract valued over \$5,000,000. Costs associated with whistleblower actions filed by an employee in Federal and state courts, and with Federal agencies under 29 CFR Part 24, 48 CFR Subpart 3.9, 10 CFR Part 708 or 42 U.S.C. 7239 will be subject to the reimbursement provisions of the new regulation.

EFFECTIVE DATE: The changes in the DEAR are effective November 17, 2000. An Acquisition Letter is being developed to provide more detailed guidance to contracting officers on this final rule.

For further information on this rule, contact Terrence D. Sheppard, (202) 586-8193; e-mail terry.sheppard@hq.doe.gov.

2. DEAR - Contractor Legal Management Requirements

This proposed rule (65 FR 63809, October 25, 2000) would establish new regulations covering contractor legal management requirements in 10 CFR Part 719. Conforming amendments are also proposed to the DEAR. The proposed regulation would cover legal costs to be reimbursed by the Department to its facility management contractors with contracts exceeding \$10,000,000.

Written comments must be received on or before the close of business November 24, 2000. Comments (3 copies) should be addressed to: Laura Fullerton, GC-61, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW, Washington, DC 20585.

For further information contact Laura Fullerton, (202) 586-3420, (Laura.Fullerton@hq.doe.gov) or Anne Broker, (202) 586-5060, (Anne.Broker@hq.doe.gov).

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3. DEAR - Revision of Patent Regulations Relating to DOE Management and Operating Contracts

This interim final rule (65 FR 68932, November 15, 2000) is amending the DEAR to improve the patent coverage relating to management and operating contracts. The clauses contained therein generally reflect the clauses used in such DOE contracts over the last five years. The changes made pursuant to this rule adapt patent related clauses to subcontracting under management and operating contracts, will result in clauses stated in "plain language," and will provide a complete set of patent clauses for all varieties of management and operating contracts.

EFFECTIVE DATE: This rule is effective December 15, 2000.

Comments on the interim final rule should be submitted by January 16, 2001. Comments (3 copies) should be addressed to Robert M. Webb, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, D.C. 20585.

For further information on this interim rule, contact Robert M. Webb at (202) 586-8264.



Gwendolyn S. Cowan
Director

cc:
PPAG Members