



Department of Energy

Washington, DC 20585

MAY 06 2010

MEMORANDUM FOR W. F. BRINKMAN
DIRECTOR, OFFICE OF SCIENCE

FROM: GEORGE J. MALOSH *for [signature]*
DEPUTY DIRECTOR FOR FIELD OPERATIONS

SUBJECT: ACTION: Approval of Equivalency for Department of Energy (DOE)
Order 226.1A, *Implementation of Department of Energy Oversight
Policy* Contractor Requirements Document

ISSUE: Earlier this year, the Office of Science (SC) incorporated into its Management and Operating (M&O) contracts an SC-specific clause on Contractor Assurance Systems. This contract clause provides an alternative approach to meeting the goals contained in the Contractor Requirements Document (CRD) of DOE Order 226.1A, *Implementation of Department of Energy Oversight Policy*, therefore, an equivalency should be granted and the DOE Order 226.1A CRD should be removed from SC M&O contracts that contain this clause.

BACKGROUND: The DOE Order 226.1A CRD sets forth requirements that are to be applied to contractors with responsibility for worker safety and health, security, cyber security, or emergency management at DOE sites or facilities. Each SC M&O contractor is required, through an SC-specific clause in their contract, to perform line management oversight according to a defined Contractor Assurance System covering the full scope of laboratory operations. This Contractor Assurance System must provide reasonable assurance to the DOE that the laboratory's system of management controls, when properly implemented, provides an effective and efficient means of meeting all applicable requirements while accomplishing assigned missions. Each contractor's system must include a minimum set of key attributes, which include metrics and targets to assess performance, rigorous self-assessment and improvement, identification and correction of negative performance trends before they become significant issues, and timely communication to the DOE Site Office on assurance-related information. DOE will use this information as the foundation for planning and executing its own oversight activities.

Prior to implementing this SC-specific contract clause, laboratory M&O contractors performed oversight according to DOE Order 226.1A and its corresponding CRD. That order applies to assurance systems for such operational aspects as environment, safety, and health; safeguards and security; cyber security; and emergency management. The Contractor Assurance System required by the SC-specific contract clause will cover the full scope of laboratory operations and we believe provides a more comprehensive approach to oversight.

A detailed comparison of the CRD for DOE Order 226.1A and the SC-specific contract clause concluded that there are no requirements in the CRD that are not also included in either the SC-specific clause or other DOE Directives or DOE Acquisition Regulation (DEAR) requirements (Attachment 2). As a result, the current requirements contained in SC M&O contracts provide



an alternative approach to meeting the goals contained in the CRD without resulting in any increase in risk to public health and safety, the environment, workers, or security. You should therefore grant an equivalency to the DOE Order 226.1A CRD for SC M&O contractors with this clause, allowing it to be removed from their contracts.

SENSITIVITIES: As required by DOE O 251.1C, we have discussed this proposed equivalency with the Office of Health, Safety and Security, the office of primary interest for this order. Their concurrence has been obtained on this memorandum.

POLICY IMPACT: None

URGENCY: None

RECOMMENDATION: That you approve the equivalency for SC M&O contractors that have the SC-specific H Clause in their contracts.

APPROVE:



DISAPPROVE:

DATE:

May 26, 2010

Attachment 1. H Clause: Contractor Assurance System

12/23/09

H Clause: Contractor Assurance System

- (a) The Contractor shall develop a contractor assurance system that is executed by the Contractor's Board of Directors (or equivalent corporate oversight entity) and implemented throughout the Contractor's organization. This system provides reasonable assurance that the objectives of the contractor management systems are being accomplished and that the systems and controls will be effective and efficient. The contractor assurance system, at a minimum, shall include the following key attributes:
- (1) A comprehensive description of the assurance system with processes, key activities, and accountabilities clearly identified.
 - (2) A method for verifying/ensuring effective assurance system processes. Third party audits, peer reviews, independent assessments, and external certification (such as VPP and ISO 9001 or ISO 14001) may be used.
 - (3) Timely notification to the Contracting Officer of significant assurance system changes prior to the changes.
 - (4) Rigorous, risk-based, credible self-assessments, and feedback and improvement activities, including utilization of nationally recognized experts, and other independent reviews to assess and improve the Contractor's work process and to carry out independent risk and vulnerability studies.
 - (5) Identification and correction of negative performance/compliance trends before they become significant issues.
 - (6) Integration of the assurance system with other management systems including Integrated Safety Management.
 - (7) Metrics and targets to assess performance, including benchmarking of key functional areas with other DOE contractors, industry and research institutions. Assure development of metrics and targets that result in efficient and cost effective performance.
 - (8) Continuous feedback and performance improvement.
 - (9) An implementation plan (if needed) that considers and mitigates risks.
 - (10) Timely and appropriate communication to the Contracting Officer, including electronic access, of assurance related information.

The initial contractor assurance system description shall be approved by the Contracting Officer.

- (b) The Government may revise its level and/or mix of oversight of this contract when the Contracting Officer determines that the assurance system is or is not operating effectively.

**Attachment 2. DOE Order 226.1A, Implementation of DOE Oversight Policy
Contractor Assurance System
Requirements Mapping**

CRD Section	H Clause (SC-Specific)	DEAR	Requirement / Purpose	Other Orders Containing This Requirement
1	H.15(a)	970.5223-1	Responsibilities section; broad and general – does not need an order to be accomplished.	
2.a	H.15(a)	970.5203-1(a)(1) 970.5223-1(c) and (d)	Establish a comprehensive and integrated Contractor Assurance System (CAS)	Integrated Safety Management System Manual DOE M 450.4-1 (ISM Manual), all Principles and Functions in general Corporate Operating Experience Program Order DOE O 210.2 (OPEX Order), Lessons Learned Quality Assurance Order DOE O 414.1C (QA Order), All Criteria and referenced standards combined
2.b.(1)	H.15 (a)(2)	970.5203-1(a)(4)	CAS to include assessments	QA Order, Criterion 9, Management Assessment, and Criterion 10, Independent Assessment
2.b.(2)	H.15 (a)(10)		CAS to include event reporting	Environment, Safety and Health Reporting Order DOE O 231.1A Chg 1 (ES&H Reporting Order)
2.b.(3)	H.15 (a)(8)	970.5223-1(c)(5)	CAS to include worker feedback mechanisms	ISM Manual, Core Function: Provide Feedback and Continuous Improvement
2.b.(4)	H.15 (a)(8)	970.5203-2(a) and (b) 970.5223-1(g)	CAS to include issues management	ES&H Reporting Order ISM Manual, Core Function: Provide Feedback and Continuous Improvement 10 CFR 851, (Worker Safety Rule), Noncompliance reporting 10 CFR 830, (Nuclear Safety Rule), Noncompliance reporting

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2.b.(5)	H.15 (a)(8)	970.5203-2(b)	CAS to include lessons learned	OPEX Order
2.b.(6)	H.15 (a)(7)	970.5203-2(a) 970.5223-1(d) and (e)	CAS to include performance measures	SC PEMP Process
2.c.	H.15 (a)(1)	970.5203-1(a)(1) 970.5223-1(e)	Contractor must submit CAS to DOE for review; CAS must contain elements listed	ES&H- ISM Manual Safeguards and security – multiple Orders containing programmatic and assessment requirements Emergency Management Order DOE O 151.1C and Continuity Programs COOP Order DOE O 150.1 Cyber security – multiple Orders containing technical, programmatic, and assessment requirements
2.d.	H.15 (a)(4)	970.5203-1(a)(4) 970.5223-1(c)(5)	CAS must include self-evaluations	QA Order, Criterion 9, Management Assessment
2.e.		970.5203-3 (c) 970.5223-1(b)(3)	Contractor personnel must possess needed skills and knowledge	QA Order, Criterion 2, Personnel Training and Qualification
2.f.		970.5203-3 (c)	Contractor must establish and maintain qualification standards	QA Order, Criterion 2, Personnel Training and Qualification
2.g.	H.15 (a)(1)	970.5203-3(a) 970.5223-1(b)(2)	Clear lines of authority and responsibility	ISM Manual, Clear Roles and Responsibilities Principle QA Order, Criterion 1, Program
2.h.		970.5232-3 (f), 942.270-1	Unfettered access for DOE	10 CFR 851, Subpart E— Enforcement Process 10 CFR 851.40 Investigations and inspections

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2.i.		970.5204-2(b) and (c)	Bring issues with conflicts on DOE Directives to attention of CO	QA Order, Criterion 1, Program, and Criterion 3, Quality Improvement
App. A, 1.a.(1)	H.15 (a)(5)	970.5203-1(a)(4) and -2(a) 970.5223-1(c)(5)	CAS must provide for identifying deficiencies and opportunities for improvement	QA Order, Criterion 3, Quality Improvement
App. A, 1.a.(2)	H.15 (a)(10)	970.5203-1(a)(4)	CAS must provide for reporting deficiencies to responsible managers	QA Order, Criterion 3, Quality Improvement
App. A, 1.a.(3)	H.15 (a)(9)	970.5203-1(a)(4) and (b) 970.5223-1(g)	CAS must provide for implementing effective corrective actions	QA Order, Criterion 3, Quality Improvement
App. A, 1.b.(1)	H.15 (a)(2)&(4)	970.5203-1(a)(4) 970.5203-1(b)	CAS must include assessments	QA Order, Criterion 9, Management Assessment, and Criterion 10, Independent Assessment
App. A, 1.b.(2)	H.15 (a)(10)	970.5203-2(d)	CAS must include incident/event reporting processes	ES&H Reporting Order
App. A, 1.b.(3)	H.15 (a)(8)	970.5223-1(c)(5)	CAS must include worker feedback mechanisms	QA Order, Criterion 3, Quality Improvement
App. A, 1.b.(4)	H.15 (a)(5)	970.5203-2(a) and (b) 970.5223-1(g)	CAS must include issues management	ES&H Reporting Order ISM Manual, Core Function: Provide Feedback and Continuous Improvement QA Order, Criterion 3, Quality Improvement

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App. A, 1.b.(5)	H.15 (a)(8)	970.5203-2(b)	CAS must include lessons learned programs	OPEX Order
App. A, 1.b.(6)	H.15 (a)(7)	970.5203-2(a) 970.5223-1(d) and (e)	CAS must include performance indicators/measures	SC PEMP process QA Order, Criterion 3, Quality Improvement
App. A, 1.c.	H.15 (a)(5)	970.5203-1(a)(2) 970.5204-3(d)	CAS data must be documented and available to DOE	QA Order Criterion 4, Documents and Records
App. A, 1.d.	H.15 (a)(2)	970.5232-3(i)(1)(viii)	Integrate 3rd-party audits/certifications into CAS	QA Order Criterion 10, Independent Assessment
App. A, 1.e.	H.15 (a)(2)	970.5232-3(i)(1)(viii)	CAS program effectiveness can be certified by 3rd parties	QA Order Criterion 10, Independent Assessment
App. A, 1.f.	H.15 (a)(2) and (4)	970.5203-2 (a) 970.5232-3(i)	Contractors must monitor and evaluate all their work	QA Order Criterion 3, Quality Improvement, and Criterion 9, Management Assessment
App. A, 2.	H.15 (a)(2)&(4)	970.5203-1(a)(4)	Assessment program is cornerstone of CAS	QA Order, Criterion 9, Management Assessment, and Criterion 10, Independent Assessment
App. A, 2.a.	H.15 (a)(4)	970.5203-1(a)(4) 970.5232-3(i)	Self assessments required	QA Order, Criterion 9, Management Assessment
App. A, 2.b.	H.15 (a)(2)	970.5203-1(a)(4) 970.5232-3(i)	Internal independent assessments required	QA Order, Criterion 10, Independent Assessment

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App. A, 3.	H.15(a)(10)		Event reporting	ES&H Reporting Order , 10 CFR 851, Noncompliance reporting 10 CFR 830, Noncompliance reporting All require reporting of events and unsafe conditions
App. A, 4.	H.15 (a)(8)	970.5223-1(c)(5)	Worker feedback	ISM Manual, Core Function: Provide Feedback and Continuous Improvement QA Order, Criterion 3, Quality Improvement 10 CFR 851.20, Management Responsibilities and Worker Rights and Responsibilities (a) Management Responsibilities
App. A, 5.	H.15 (a)(5)	970.5203-2(a) and (b) 970.5223-1(g)	Issues management	ES&H Reporting Order QA Order, Criterion 3, Quality Improvement ISM Manual, Core Function: Provide Feedback and Continuous Improvement 10 CFR 851, Noncompliance reporting 10 CFR 830, Noncompliance reporting
App. A, 5.a.	H.15 (a)(5)	970.5203-2(b) 970.5223-1(g)	Issues management, program deficiencies	ES&H Reporting Order QA Order, Criterion 3, Quality Improvement ISM Manual, Core Function: Provide Feedback and Continuous Improvement

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App. A, 5.b.	H.15 (a)(5)	970.5203-1(a)(4) and (b) 970.5223-1(g)	Take interim corrective actions	QA Order, Criterion 3, Quality Improvement ES&H Reporting Order ISM Manual, Core Function: Provide Feedback and Continuous Improvement
App. A, 5.c.	H.15 (a)(5)	970.5203-1(a)(4) and 2(a) 970.5223-1(c)(5)	CAS must have processes to identify programmatic weaknesses	QA Order, Criterion 3, Quality Improvement ES&H Reporting Order ISM Manual, Core Function: Provide Feedback and Continuous Improvement
App. A, 5.d.	H.15 (a)(8)	970.5203-1(a)(4)	CAS must have processes for communicating issues up through management	QA Order, Criterion 1, Program, and Criterion 3, Quality Improvement ES&H Reporting Order ISM Manual, Core Function: Provide Feedback and Continuous Improvement
App. A, 6.	H.15 (a)(8)	970.5203-2(b)	Lessons Learned	QA Order, Criterion 3, Quality Improvement OPEX Order
App. A, 7.	H.15 (a)(7)	970.5203-2(a) 970.5223-1(d) and (e)	Performance Measures	SC PEMP Process