

**Bureau of Ocean Energy Management
Interim Policy Document**

Effective Date: July 11, 2012

IPD No: 2012-06

Series: Ethics and Conduct

Title: Accepting and Using Contributions for Environmental and Technical Work Related to the Bureau of Ocean Energy Management Outer Continental Shelf Program.

Originating Office: Office of Budget and Program Coordination

1. Purpose. These policies have been developed in response to recent legislation that clarifies the ability of the Bureau of Ocean Energy Management (BOEM) to receive outside contributions for environmental work and other research. Public Law 110-161 (Division F, Title I, Section 121) has amended 43 U.S.C. 1473 to include “in fiscal years 2010 to 2013 contributions of money and services to conduct work in support of the orderly exploration and development of Outer Continental Shelf (OCS) resources including, but not limited to, preparation of environmental documents such as impact statements and assessments, studies, and related research.”

2. Objective. This Interim Policy Document (IPD) articulates BOEM policy on accepting and using contributions for environmental and technical work related to BOEM’s regulatory and statutory authority and requirements on the OCS.

3. Authorities.

A. 43 U.S.C. 1473, as amended (P.L. 111-88§ 123).

B. BOEM Manual, Section 374, Chapter 6, Donations.

4. Reference. Department of the Interior (DOI) Departmental Manual, 374 DM 6, “Donation Guidelines.”

5. Definitions.

A. Contribution is the money, data, studies, reports and/or services provided to support or perform contribution work.

B. Contribution work is the work that will be applied to completing the objectives of a contribution. Examples of contribution work are the activities that result in an Environmental Impact Statement (EIS), a study, or data collection.

C. Environmental documents are environmental impact assessment and evaluation documents such as, but not limited to, an EIS or an Environmental Assessment.

6. Policy. BOEM policy is to accept and use contributions in a manner that (1) promotes and enhances its programs and activities on the OCS consistent with applicable laws, for example by expanding BOEM's capacity to conduct environmental reviews; (2) does not create a conflict or the appearance of a conflict of interest between BOEM and the entities it regulates or any other prohibited source; and (3) maintains BOEM's high standards for scientific and technical adequacy. In addition, BOEM's policy on contributions will be subject to all relevant and applicable considerations described in 374 DM 6. Particular attention will be given to Section 6.6 "Considerations When Accepting Donations" to ensure that no inappropriate influence is associated with or is perceived to be associated with a contribution. The following policies and procedures are to be put in place to promote these objectives.

A. Acceptance of Contributions.

(1) Acceptable Contributions: BOEM may accept contributions for environmental documents, studies, data collection, and for other purposes that are important for accomplishing BOEM's regulatory and statutory mission and enhancing its programs on the OCS. The acceptance of contributions will be at the discretion of the BOEM through the approval of the Deputy Director. Contributions for work other than environmental documents, data collection, and studies and related research will require approval by the Director.

(2) Unacceptable Contributions: BOEM will not accept contributions under the following conditions: (1) BOEM will not accept contributions that are intended for general use, at BOEM's discretion, or for unspecified objectives; (2) BOEM will not accept contributions to recoup costs of already completed projects; (3) BOEM will not accept contributions for any EIS prepared for the 5-Year OCS Oil and Gas Program or for lease sales scheduled in the 5-Year Program; (4) BOEM will not accept contributions which, if accepted, would cause a reasonable person with knowledge of the relevant facts to question the impartiality, integrity, and objectivity with which agency programs are administered; and (5) BOEM will not accept contributions which, if accepted, would create an organizational conflict of interest or the appearance of such.

B. Contributions of Scientific and Engineering Research and Data. BOEM may accept contributions of environmental, technological, and other data and scientific and engineering investigations that would meet a legitimate information need to further BOEM's OCS mission and programs.

C. Monetary Contributions. BOEM may accept monetary contributions for environmental documents, for environmental and technical studies, for data collection, and for other purposes that further and enhance BOEM's OCS mission and programs. Monetary contributions will be evaluated prior to acceptance to determine the suitability of the work to BOEM's objectives and policies and the extent to which the contribution amount will accomplish the intended work.

(1) Contractor Selection: If all or part of a monetary contribution will be used to award contracts to complete a substantial amount of the contribution work, BOEM, in

conjunction with the Acquisition Management Division (AMD), Bureau of Safety and Environmental Enforcement (BSEE) will either select contractors or pursue third-party contracting. BOEM and the BSEE Contracting Officer will be solely responsible for selecting a contractor to prepare an EIS under this policy consistent with the Council on Environmental Quality's guidance for contracting under the National Environmental Policy Act (40 CFR 1506.5(b) and (c)) which states that an EIS, "shall be prepared directly by or by a contractor selected by the lead agency."

(2) Additional Contributions: A contributor will not be obligated to make additional contributions if the initial contribution amount was insufficient to complete the contribution work. BOEM, however, may accept additional voluntary contributions from a contributor to complete the work or may complete the work at its own expense.

(3) Prioritization and Scheduling: BOEM will schedule contribution work according to existing priorities, schedules, and available resources. BOEM will provide an estimate for the scheduling and completion of the contribution work based on these factors. BOEM, however, will not guarantee the completion of the contribution work within the timeframe established in the initial schedule.

(4) Content and Methodology: BOEM will have authority for final decisions on the scientific and technologic methodologies used in studies, data collection efforts, and environmental documents. The contributor will have no editorial rights to the contents of studies and environmental documents prepared by BOEM or contractors.

(5) Government Salaries: BOEM will not ordinarily accept monetary contributions to create and fill positions within Government. Any exception that occurs in a specific situation in which it would benefit the Government to use contributions to hire permanent or temporary BOEM employees without creating a conflict of interest or the appearance of a conflict of interest would require approval by the Director.

D. Contributions of Services. BOEM may accept non-monetary contributions such as subject matter expertise, analytical and modeling capabilities, use of facilities and equipment, and other services that may assist BOEM in accomplishing its OCS mission.

7. Responsibilities.

A. Director is responsible for:

(1) Ensuring that the use of contributions is consistent with DOI and BOEM guidance and policies that apply to the acceptance and use of contributions and donations without creating or appearing to create a conflict of interest and to assure that no inappropriate influence is attached or is perceived to be attached to a contribution;

(2) Approving contributions that will be used to create permanent or temporary Federal positions; and

(3) Approving contributions for purposes other than environmental documents, studies, and related research.

B. Deputy Director is responsible for:

(1) Approving the acceptance of contributions for environmental documents, data collection, and studies and related research.

(2) Reviewing appealed Ethics Officer decisions and preparing written explanations of the final decision regarding an appeal.

C. Chief, Office of Environmental Programs (OEP) is responsible for:

(1) Providing guidance and direction on accepting and using contributions to ensure that BOEM is in compliance with laws, regulations, and DOI guidance that apply to the acceptance and use of contributions;

(2) Receiving and reviewing requests from Regional Directors and Headquarters Division Chiefs to accept a contribution proposal; and

(3) Forwarding contribution proposals deemed acceptable to the Ethics Officer.

D. Regional Directors and Headquarters Division Chiefs are responsible for:

(1) Serving as the Points of Contact for submission of environmental and technical contribution proposals;

(2) Evaluating the compatibility of the contribution work with BOEM policies, needs, standards, and interests;

(3) Evaluating the degree to which the contribution can accomplish the contribution work; and

(4) Forwarding acceptable contribution proposals to the Chief, OEP.

E. Other Recipients of Contribution Proposals are responsible for the appropriate review of the contribution proposal and forwarding the proposal through approved channels to a Regional Director or Headquarters Division Chief.

F. Chief, Office of Budget and Program Coordination (OBPC) is responsible for:

(1) Receiving DOI and OMB approval for the creation of a new account for approved contributions;

(2) Confirming that BOEM has budgetary authority to accept a particular contribution under budgetary language.

G. Chief, Finance Division, BSEE is responsible for:

- (1) Establishing an account in FBMS for approved contributions;
- (2) Ensuring the payment of invoices charged to the contribution account.

H. Chief, AMD, BSEE is responsible for ensuring that a warranted Contracting Officer will be assigned to negotiate and award the agreement between BOEM and the contributor, and for conducting a competitive procurement to acquire services for completing the contribution work.

I. Ethics Officer is responsible for reviewing all available information pertaining to the source of the contribution and the rationale for the offering. All information will be considered relative to applicable ethics guidelines to ensure compliance with regulations and to avoid the appearance of impropriety.

8. Procedures.

A. Preliminary Process for Accepting Contributions:

- (1) The recipient of a proposal will forward it to either a Regional Director or a Headquarters Division Chief.
- (2) Regional Director or Headquarters Division Chief will review the contribution proposal to determine the relevance of the contribution to BOEM's needs with a recommendation to either approve or disapprove the contribution.
- (3) Regional Director or Headquarters Division Chief will forward contribution proposals recommended for approval to the Chief, OEP.
- (4) If approved by the Chief, OEP, the proposal will be forwarded to the Ethics Officer for review and approval. The Ethics Officer's decisions can be appealed to the Deputy Director.
- (5) Contributions approved by the Ethics Officer will be reviewed by the Chief, OBPC for confirmation of BOEM's budgetary authority to accept the particular contribution.
- (6) Contributions approved by the Chief, OBPC will be presented to the Deputy Director for review and approval. For contributions for environmental documents, data collection, and studies and related research, the Deputy Director's approval is the final approval.
- (7) For those contributions for which the Deputy Director's approval is not the final approval, once a contribution is reviewed and approved by the Deputy Director, it will go to the Director for final approval.

B. Approved Contributions Acceptance Process:

- (1) After the Director or Deputy Director, as appropriate, has approved the acceptance of a

contribution, the acceptance will be documented and sent to the Chief, AMD, BSEE for review. The Chief, AMD, BSEE will ensure the documentation is included in any contract file resulting in an award involving funds received by contribution.

(2) The DOI Solicitor's Office must provide legal approval of the negotiated agreement before it can take effect and any contribution work can begin.

(3) Negotiated contribution agreements reviewed and approved by the DOI Solicitor's Office will be reviewed by the Deputy Director for approval.

(4) The Chief, Finance Division, BSEE and the Chief, AMD, BSEE, will be notified of any negotiated contribution agreements approved by the Deputy Director and will begin to administer the negotiated contribution agreement.

9. Reporting Requirements. Once a decision is made to accept a contribution, the Chief, OBPC must be notified of the decision so as to maintain the required system of record.

10. Cancellation. This IPD will remain in effect for the remainder of the time that the statutory authority is granted or until incorporated into the BOEM Manual, cancelled, or superseded by another IPD.



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