

## § 626.6

## 10 CFR Ch. II (1–1–10 Edition)

specifications in acquisition solicitations, and shall make them available on the Web sites of the DOE Office of Fossil Energy <http://www.fe.doe.gov/programs/reserves> and the OPR <http://www.spr.doe.gov>.

(2) DOE shall periodically review the quality specifications to ensure, to the greatest extent practicable, the crude oil mix in storage matches the demand of the United States refining system.

(f) *Quantity.* In determining the quantities of oil to be delivered to the SPR, DOE shall:

(1) Take into consideration market conditions and the availability of transportation systems; and

(2) Seek to avoid adversely affecting other market participants or crude oil market fundamentals.

(g) *Offer and evaluation procedures.* (1) Each solicitation shall provide necessary instructions on offer format and submission procedures. The details of the offer, evaluation and award procedures may vary depending on the method of acquisition.

(2) DOE shall use relative crude values and time differentials to the maximum extent practicable to manage acquisition and delivery schedules to reduce acquisition costs.

(3) DOE shall evaluate offers based on prevailing market prices of specific crude oils, and shall award contracts on a competitive basis.

(4) Whether acquisition is by direct purchase or royalty transfer and exchange on a term contract basis, DOE shall use a price index to account for fluctuations in absolute and relative market prices at the time of delivery to reduce market risk to all parties throughout the contract term.

(h) *Scheduling and delivery.* (1) Except as provided in paragraph (h)(4) of this section, DOE shall accept offers for crude oil delivered to specified SPR storage sites via pipeline or as waterborne cargos delivered to the terminals serving those sites.

(2) Except as provided in paragraph (h)(4) of this section, DOE shall generally establish schedules that allow for evenly spaced deliveries of economically-sized marine and pipeline shipments within the constraints of SPR site and commercial facilities receipt capabilities.

(3) DOE shall strive to maximize U.S. flag carrier utilization through the terms of its supply contracts.

(4) DOE reserves the right to accept offers for other methods of delivery if, in DOE's sole judgment, market conditions and logistical constraints require such other methods.

### § 626.6 Acquiring oil by direct purchase.

(a) *General.* For the direct purchase of crude oil, DOE shall, through certified contracting officers, conduct crude oil acquisitions in accordance with the FAR and the DEAR.

(b) *Acquisition strategy.* (1) DOE solicitations:

(i) May be either continuously open or fixed for a period of time (usually no longer than 6 months); and

(ii) May provide either for prompt delivery or for delivery at future dates.

(2) DOE may alter the acquisition plan to take advantage of differentials in prices for different qualities of oil, based on a consideration of the availability of storage capacity in the SPR sites, the logistics of changing delivery streams, and the availability of ships, pipelines and terminals to move and receive the oil.

(3) Based on the market analysis described in paragraph (d) of this section, DOE may refuse offers or suspend the acquisition process on the basis of Government estimates that project substantially lower oil prices in the future than those contained in offers. If DOE determines there is a high probability that the cost to the Government can be reduced without significantly affecting national energy security goals, DOE may either contract for delivery at a future date or delay purchases to take advantage of projected future lower prices. Conversely, DOE may increase the rate of purchases if prices fall below recent price trends or futures markets present a significant contango and prices offer the opportunity to reduce the average cost of oil acquisitions in anticipation of higher prices.

(4) Based on the market analysis described in paragraph (d) of this section, DOE may refuse offers, decrease the

rate of purchase, or suspend the acquisition process if DOE determines acquisition will add significant upward pressure to prices either regionally or on a world-wide basis. DOE may consider recent price changes, private inventory levels, oil acquisition by other stockpiling entities, the outlook for world oil production, incipient disruptions of supply or refining capability, logistical problems for moving petroleum products, macroeconomic factors, and any other considerations that may be pertinent to the balance of petroleum supply and demand.

(c) *Fill requirements determination.* DOE shall develop SPR fill requirements for each solicitation based on an assessment of national energy security goals, the availability of storage capacity, and the need for specific grades and quantities of crude oil.

(d) *Market analysis.* (1) DOE shall establish a market value for each crude type to be acquired based on a market analysis at the time of contract award.

(2) In conducting the market analysis, DOE may use prices on futures markets, spot markets, recent price movements, current and projected shipping rates, forecasts by the DOE Energy Information Administration, and any other analytic tools available to DOE to determine the most desirable purchase profile.

(3) A market analysis may also consider recent price changes, private inventory levels, oil acquisition by other stockpiling entities, the outlook for world oil production, incipient disruptions of supply or refining capability, logistical problems for moving petroleum products, macroeconomic factors, and any other considerations that may be pertinent to the balance of petroleum supply and demand.

(e) *Evaluation of offers.* (1) DOE shall evaluate offers using:

(i) The criteria and requirements stated in the solicitation; and

(ii) The market analysis under paragraph (d) of this section.

(2) DOE shall require financial guarantees from contractors, in the form of a letter of credit or equivalent financial assurance.

#### § 626.7 Royalty transfer and exchange.

(a) *General.* DOE shall conduct royalty transfers pursuant to an agreement between DOE and DOI for the transfer of royalty oil.

(b) *Acquisition strategy.* (1) DOE and DOI shall select a royalty volume from specified leases for transfer usually over six-month periods.

(2) If logistics and crude oil quality are compatible with SPR receipt capabilities and requirements respectively, DOE may take the royalty oil directly from DOI and place it in SPR storage sites. Otherwise, DOE may competitively solicit suppliers to deliver oil of comparable value to the SPR in exchange for the receipt of royalty-in-kind oil.

(3) If, based on the market analysis described in paragraph (d) of this section, DOE determines there is a high probability that the cost to the Government can be reduced without significantly affecting national energy security goals, DOE may contract for delivery at a future date in expectation of lower prices and a higher quantity of oil in exchange. Conversely, it may schedule deliveries at an earlier date under the contract in anticipation of higher prices at later dates.

(4) Based on the market analysis in paragraph (d) of this section, DOE may, after consultation with DOI, suspend the transfer of royalty oil to DOE if it appears the added demand for oil will add significant upward pressure to prices either regionally or on a world-wide basis.

(c) *Fill requirements determination.* DOE shall develop SPR fill requirements for each solicitation based on an assessment of national energy security goals, the availability of royalty oil and storage capacity, and need for specific grades and quantities of crude oil.

(d) *Market analysis.* (1) DOE may use prices on futures markets, spot markets, recent price movements, current and projected shipping rates, forecasts by the DOE Energy Information Administration, and any other analytic tools to determine the most desirable acquisition profile.

(2) A market analysis may also consider recent price changes, private inventory levels, oil acquisition by other stockpiling entities, the outlook for