



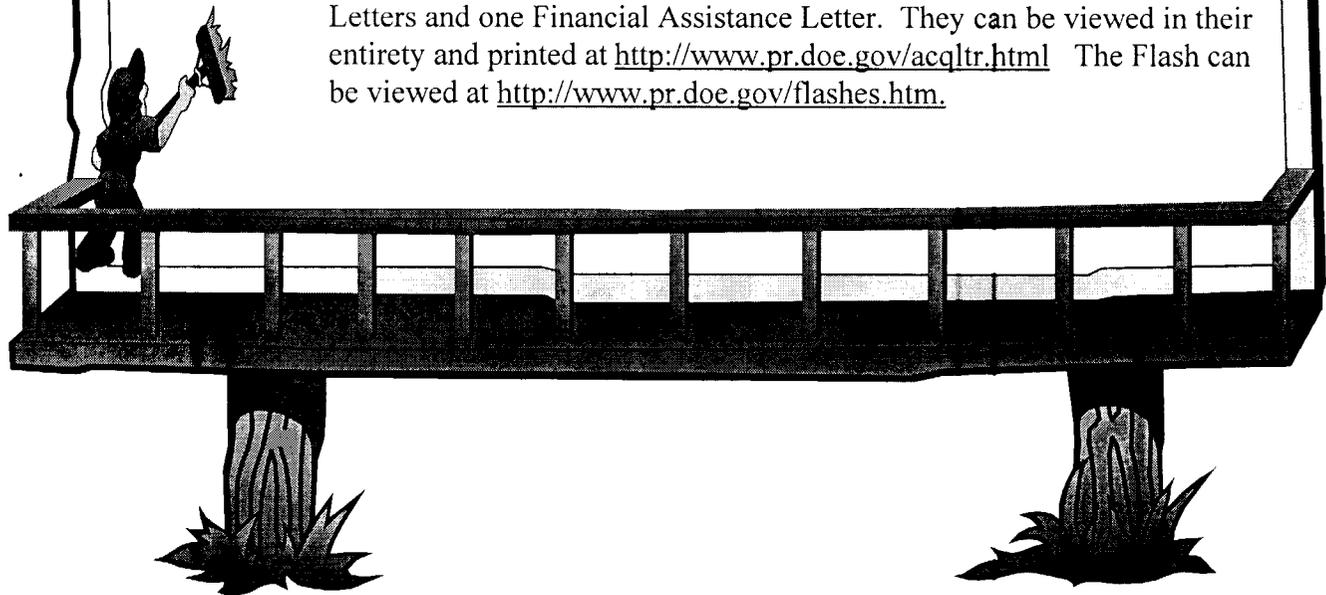
Headquarters Policy Flash

FLASH 2000-30

DATE: December 15, 2000
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, MA-51
Office of Procurement and Assistance Management

SUBJECT: I. Service Contract Act (AL-2000-10)
II. FY 2001 Legislative Provisions (AL-2000-11)
III. FY 2001 Legislative Provisions (FAL-2000-02)
IV. 2000 Executive Compensation (AL-2000-12)

This Flash transmits a summary of three recently issued Acquisition Letters and one Financial Assistance Letter. They can be viewed in their entirety and printed at <http://www.pr.doe.gov/acqltr.html> The Flash can be viewed at <http://www.pr.doe.gov/ashes.htm>.



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(DECEMBER 15, 2000)

I. Acquisition Letter 2000-10 - Service Contract Act (dated December 14, 2000)

This AL forwards a FAR Class Deviation addressing Service Contract Act requirements for certain subcontracts for commercial services. Notice of the impending Class Deviation was provided to DOE procurement offices in the Headquarters Policy Flash 2000-22, dated August 25, 2000.

For questions related to this Acquisition Letter, please contact Kevin Smith on (202) 586-8189.

II. Acquisition Letter 2000-11 on FY 2001 Legislative Provisions (dated December 15, 2000)

Energy and Water Act

AL 2000-11 provides guidance regarding the implementation of Sections 301, 304, 307, 601, and 602 of the FY 2001 Energy and Water Development Appropriations Act Pub. L. 106-377. Provisions related to the use of competitive procedures, RFP's for unfunded programs, contractor travel, lobbying restrictions, and purchase of American made products are carried over from the FY 2000 Energy and Water Development Appropriations Act Pub. L. 106-60. The travel restrictions include a new provision which excludes placing monetary limits on the reimbursement of travel costs for management and operating contractors within the Laboratory Directed Research and Development program.

Also, be advised that this year's legislation does not require Secretarial approval and congressional notification of FAR deviations when using appropriated funds. Therefore, language pertaining to approval and notification has been removed from our internal policy and procedures. However, all other internal procedures for deviating from FAR and DEAR requirements remain intact. Strict emphasis continues to be placed on Departmental review procedures governing FAR and DEAR deviations. Revised guidelines for deviation review procedures are contained in the Acquisition Guide, Chapter 1.

Another provision not adopted in the FY 2001 Energy and Water Development Act is the language allowing the Secretary of Energy to enter into multi-year contracts without obligating the estimated costs.

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Interior Act

FY 2001 Department of Interior and Related Agencies Appropriations Act (Pub. L. 106.291) contains three provisions relative to DOE procurement programs. Section 301 addresses public availability of information, section 303 lobbying restrictions, and an unnumbered provision that prohibits the use of funds to prepare, issue, or process procurement documents where funds have yet to be appropriated. Guidance implementing these provisions is contained in the attached AL.

Defense Authorization

The Floyd D. Spence National Defense Authorization Act for FY 2001 (Pub. L. 106-398) legislates three revisions to the FAR. These provisions are not included in this AL inasmuch as the issues will require amendments to the Federal Acquisition Regulation.

- ✓ Section 810 provides that procurement notices of contracting opportunities be published by electronic means through a single Government-wide point of entry;
- ✓ Section 813 provides that solicitations for the procurement of information technology services shall not set forth minimum experience or education requirements for proposed contractor personnel in order for a bidder to be eligible for contract award; and,
- ✓ Section 821, which amends the FAR to establish a preference for Performance Based Contracting in the procurement of services.

Additional provisions included in the FY 2001 Defense Authorization Act are related to DOE Design and Construction programs.

- ✓ Section 3122 places monetary limits on general plant projects;
- ✓ Section 3123 places limits on construction projects;
- ✓ Section 3125 directs the Secretary to obtain authority for conceptual and construction design prior to incurring cost over a particular threshold; and,
- ✓ Section 3126 authorizes the Secretary to use any funds available to perform planning, design, and construction activities in an emergency situation.

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These sections are carried over from prior authorization Acts. This AL transmits guidance related to these provisions to the HCAs. As a result of the emphasis placed on Project Engineering and Design (PED) and in order to ensure a closed loop process between Congress, CR, and MA, direction is provided. Guidance in the AL is intended to make Contracting Officers aware of the controlling provisions used during the acquisition of A/E and Constructions services.

For questions related to this Acquisition Letter, contact Denise P. Wright on (202) 586-6217.

III. Financial Assistance Letter (FAL) 2000-02 on FY 2001 Legislative Provisions (dated December 15, 2000)

The guidance in the FAL is the same as the guidance provided in FAL 99-02, Implementation of FY 2000 Legislative Provisions.

For questions related to this FAL, contact Trudy Wood on (202) 586-5625.

IV. Acquisition Letter (AL) 2000-12 - 2000 Executive Compensation (dated December 15, 2000)

The purpose of this AL is four-fold:

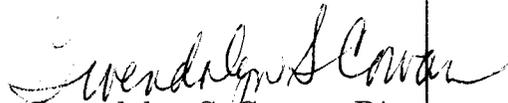
- ◆ It appries you of a change to the “benchmark compensation amount” to \$353,010 from \$342,986. This information was previously provided in Flash #2000-14, May 9, 2000 and was published in the *Federal Register* Vol 65, No. 93, page 30640, May 12, 2000.
- ◆ It rescinds AL 99-02, March 11, 1999, which provided guidance relative to Section 804 of the FY 1999 Defense Authorization Act (Pub. L. 105-261) and established a limitation on the reimbursement of certain senior executive compensation incurred after January 1, 1999.
- ◆ It raises HCA approval authority for top contractor management official’s annual salary (including allowable variable pay) to \$250,000 from \$225,000 and removes the reference to the Contractor Executive Board in paragraph B.

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- ◆ It restates existing guidance regarding allowable/unallowable cost and salary approval.

For questions related to this Acquisition Letter, please contact Terry Sheppard on 202-586-8193.

cc: PPAG Members


Gwendolyn S. Cowan, Director