



# **Headquarters Policy Flash**

FLASH 2004-07

DATE: March 3, 2004  
TO: Procurement Directors  
FROM: Office of Procurement and Assistance Policy, ME-61  
Office of Procurement and Assistance Management

SUBJECT: **FY 2004 Procurement Related Legislative Provisions and  
Acquisition Letters Remaining in Effect**

SUMMARY: This Flash transmits summary information of the new Acquisition Letter that provides implementing guidance on FY 2004 appropriation requirements and Acquisition Letters remaining in effect. The Flash and Acquisition Letters are posted online at <http://professionals.pr.doe.gov>

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**1. Acquisition Letter 2004-02 - FY 2004 Legislation Provisions (dated March 1, 2004)**

**Energy and Water Act**

AL-2004-02 provides guidance regarding the implementation of Section 301, 304, 307, 501, 502, and Legislative Direction as provided in the Energy and Water Development Appropriations Act Pub. L. 108-137, also known as the E&W Act. RFP's for unfunded programs, user facilities, lobbying restrictions, and purchase of American made products are carried over from the FY 2003 Energy and Water Development Appropriations Act Pub. L. 108-7 (Division D). However, while the provision regarding competition still exists in the FY 2004 legislation, the direction provided by Congress regarding the extend/compete process for 5 Management and Operating (M&O) contracts is significantly changed..

The Energy and Water Development Appropriations Act, 2004, section 301 prohibits the use of appropriated funds to make payments for contracts to manage and operate five named Federally Funded Research and Development Centers, unless not later than 60 days after enactment the Secretary publishes in the Federal Register and submits to the Committees on Appropriations of the House and Senate, his decision to use competitive procedures for the award of each contract. The five noncompetitive Management and Operating contracts are Ames National Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory. The Conference Committee recognized the challenge of competing the five contracts and provided authority to extend current contract terms for up to 2 years.

In addition to the 5 FFRDCs stated above, the Secretary announced on January 30, 2004, that 5 more management and operating contracts for the Department's science and national defense laboratories would be competed in a manner consistent with those contracts cited in the Energy and Water Development Appropriations Act, 2004. This action joins the evaluation and implementation of the recommendations of the Blue Ribbon Commission on the Use of Competitive Procedures for DOE laboratories with the tenets of Section 301. This stance supports the Secretary's belief "that a competitive environment is generally desirable for the effective and efficient operation of our labs."

**Interior Act**

FY 2004 Department of Interior and Related Agencies Appropriations Act Pub. L. 108-108 contains four provisions relative to DOE procurement programs; Section 301 addresses public availability of information, Section 302 lobbying restrictions, Section 340 requires the Department to identify funds requested to perform competitive sourcing studies for Interior related programs, projects, and activities, and an unnumbered provision that prohibits the preparation, issuance, or processing of procurement documents for unfunded programs.

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Guidance implementing these provisions is contained in the attached Acquisition Letter.

**Defense Act**

The National Defense Authorization Act for FY 2004, Pub. L. 108-136, which may be cited as the Services Acquisition Reform Act of 2003 (SARA), contains various acquisition reform provisions. These provisions require uniform government-wide implementation and will be processed through the usual FAR regulatory process.

**2. Acquisition Letter (FAL) 2004-01**

AL 2004-01, "Acquisition Letters remaining in Effect" was issued on February 25, 2003.

For questions related to this Acquisition Letter, contact Denise P. Wright on (202) 586-6217 or via e-mail at [Denise.Wright@hq.doe.gov](mailto:Denise.Wright@hq.doe.gov)



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Attachments  
cc: PPAG Members