



# FINANCIAL ASSISTANCE LETTER

This Financial Assistance Letter is issued under the authority of the Procurement Executives of DOE and NNSA

## **Subject: Implementation of Fiscal Year (FY) 2004 Legislative Provisions**

### **What is the Purpose of this Financial Assistance Letter (FAL)?**

This FAL provides Contracting Officers and grants personnel guidance for the implementation of certain provisions contained in the Energy and Water Development Appropriations Act, 2004 (Energy & Water Act), Pub. L. 108-137, enacted December 1, 2003 and the Department of Interior and Related Agencies Appropriations Act, 2004 (Interior Act), Pub. L. 108-108, enacted November 10, 2003.

### **How will this Change My Work Processes?**

The statutory provisions addressed in this FAL are the same as those enacted for Fiscal Year 2003. There are no changes to any work process.

### **When is this FAL Effective?**

The statutory provisions addressed in this FAL are effective on the date of enactment of the Act containing the provision. This FAL supersedes and cancels FAL 2003-02 "Implementation of Fiscal Year (FY) 2003 Legislative Provisions".

### **When Does This FAL Expire?**

This FAL remains in effect until superseded or canceled.

### **Who is the Point of Contact?**

Contact Jackie Kniskern of the Office of Procurement and Assistance Policy by telephone at (202) 586-8189 or by email at [jacqueline.kniskern@hq.doe.gov](mailto:jacqueline.kniskern@hq.doe.gov).

### **What is the Background?**

The guidance provided in this FAL is the same as the guidance provided in FAL 2003-02 and results from the following statutory requirements:

#### Lobbying Restrictions (Energy and Water Act §501/Interior Act §302)

The Energy and Water Act prohibits the use of funds appropriated, either directly or indirectly, to influence congressional action on any legislation or appropriations matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of Title 18, United States Code. The Interior Act prohibits the use of funds appropriated under the Act for any activity or the publication of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete.

Purchase of American-Made Equipment and Products—Sense of Congress (Energy and Water Act §502(a) and (b)) /FY 2000 Interior Act 307(b) and (d). This provision was made permanent in the FY 2000 Interior Act.

This provision provides that it is the sense of Congress that to the greatest extent practicable, all equipment and products purchased with funds made available from the Energy and Water Act should be American-made and requires the Department to notify awardees of this statement.

Compliance with Buy American Act (FY 2000 Interior Act §307(a) and (d)). This provision was made permanent in the FY 2000 Interior Act.

This provision provides that none of the funds made available under the Interior Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c; popularly known as the "Buy American Act").

**What is the Guidance Included in the FAL?**

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**I. Lobbying Restrictions**

**A. Lobbying Restriction (Energy and Water Act 2004)**

Contracting Officers must incorporate the following clause into existing and new financial assistance awards, when funds made available under the FY 2004 Energy and Water Development Appropriations Act are obligated on the award:

*LOBBYING RESTRICTION (ENERGY AND WATER ACT FY 2004)*

*The awardee agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S. C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.*

*(End of Clause)*

**B. Lobbying Restriction (Interior Act, 2004)**

Contracting Officers must incorporate the following clause into existing and new financial assistance awards, when funds made available under the FY 2004 Interior and Related Agencies Appropriation Act are obligated on the award:

*LOBBYING RESTRICTION (INTERIOR ACT FY 2004)*

*The awardee agrees that none of the funds obligated on this award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation.*

*(End of Clause)*

**II. Purchase of American-made Equipment and Products-Sense of Congress**

Contracting Officers must incorporate the following notice into existing or new financial assistance awards, when funds made available under the FY 2004 Energy and Water Development Appropriations Act or any Interior or Related Agencies Appropriation Act after FY 2000:

*NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS-SENSE OF CONGRESS*

*It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.*

*(End of Notice)*

**III. Compliance with Buy American Act**

Contracting Officers must incorporate the following clause into existing and new financial assistance awards, when funds made available under any Interior Act, after fiscal year 2000, are obligated on the award:

*COMPLIANCE WITH BUY AMERICAN ACT*

*In accepting this award, the recipient agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a - 10c, popularly known as the "Buy American Act"). The recipient should review the provisions of the Act to ensure that expenditures made under this award are in accordance with it.*

*(End of Clause)*