



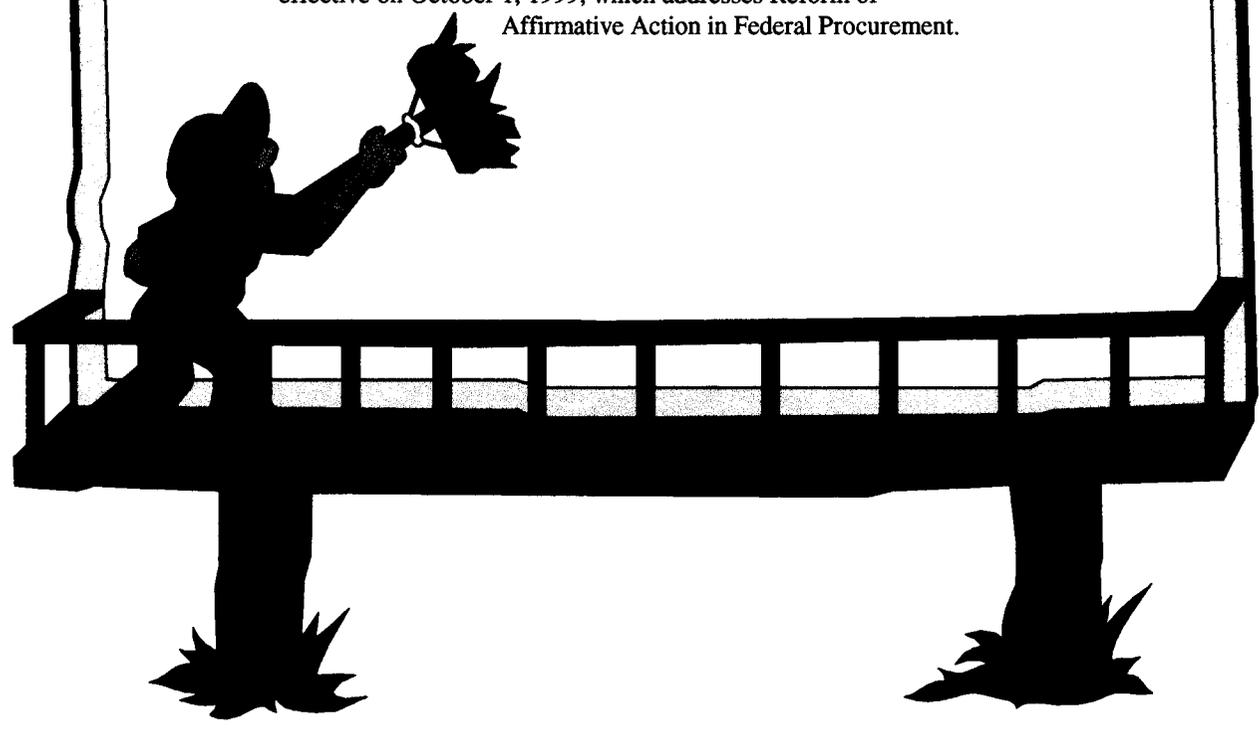
# Headquarters Policy Flash

## Flash # 99-12

**DATE:** July 15, 1999  
**TO:** Distribution  
**FROM:** Office of Procurement and Assistance Policy (MA-51)  
Office of Procurement and Assistance Management

**SUBJECT:** *Acquisition Letter 99-05, "Deviations, Local Clauses, Uniform Contract Format, and Clause Matrix" and FAC 97-13.*

**SUMMARY:** This Flash summarizes two items: Acquisition Letter (AL) 99-05, "Deviations, Local Clauses, Uniform Contract Format, and Clause Matrix" issued July 9, 1999 and effective July 23, 1999; and FAC 97-13, published in the Federal Register on July 2, 1999 and effective on October 1, 1999, which addresses Reform of Affirmative Action in Federal Procurement.



## **I. AL 99-05**

Acquisition Letter (AL) 99-05 implements several recommendations resulting from our recent review of the policies and procedures for Management and Operating (M&O) contracts. One of the primary objectives of the review was to promote a more uniform and disciplined approach in the application of award and administration policies for M&Os. This AL meets that objective by providing guidance to the Department's procurement personnel in the following four areas:

- Policies and procedures for deviating from the Federal Acquisition Regulation (FAR) or the Department of Energy Acquisition Regulation (DEAR).
- Policies and practices for using locally drafted clauses in DOE contracts.
- Use of the Uniform Contract Format in DOE contracts.
- Use of the newly published M&O Contract Clause Matrix.

A draft of the AL was previously distributed for comment throughout the Department and was reviewed by the Field Management Council. On July 8, 1999, the Chief Operating Officer approved the AL for release.

The final AL reflects several changes that were made based on comments received, including:

Part I, *Deviations from the FAR or the DEAR*, was revised as follows:

- To allow DOE Field Offices to make certain types of deviations without obtaining prior approval from the Office of Procurement and Assistance Management. These specific types of deviations are: *a deviation involving patents, data, and copyrights* for which the Field Patent Counsel has obtained the concurrence of the Department's Patent Counsel; *a deviation from standard financial management clauses* for which the Field Chief Financial Officer has obtained the concurrence of the Department's Chief Financial Officer; and, *an administrative deviation* - See the AL for specific policy addressing these types of deviations.
- To clarify that the time periods stated for submission of the deviation request package are flexible if an expedited review is requested by the Field Office.
- To add two attachments that identify the Contract Reform Clauses and the Standard Financial Management Clauses.

Part II, *Local Clauses*, was revised to clarify that DOE Contracting Officers are responsible for approving the use of local clauses, and that the Office of Procurement and Assistance Policy is responsible for issuing rulemakings that standardize any policy, procedure, solicitation provision, or contract clause that has a significant effect beyond the operating procedures of the Department,

or that has a significant cost or administrative impact on contractors or offerors. We will continue to review local clauses in use at Field Offices to determine when a rulemaking may be necessary.

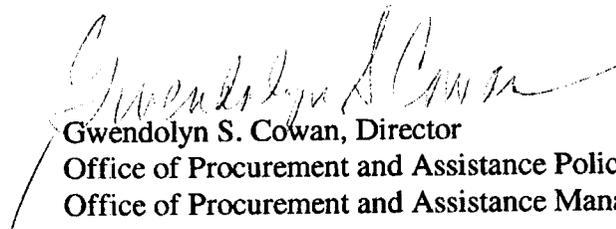
The AL is not attached to this Flash due to its volume, but may be easily accessed on the MA-5 Home Page at [www.pr.doe.gov/acqltr.html](http://www.pr.doe.gov/acqltr.html). Points of contact for information contained in the AL are identified on the first page of the AL.

## **II. FAC 97-13**

FAC 97-13, published on July 2, 1999 at 64 FR 36221, is a final rule with an effective date of October 1, 1999. It adopts with changes the interim rules published as FAC 97-06 (63 FR 35719, June 30, 1999); FAC 97-07 (63 FR 36120, July 1, 1999); FAC 97-08 (63 FR 52426, Sept. 30, 1999); and FAC 97-07 Addendum (63 FR 71721, Dec. 29, 1999) and implements the Department of Justice's model for reform of affirmative action in Federal procurement in light of Adarand Constructors, Inc. v. Pena, 115 S. Ct. 2097 (1995).

Two significant changes to the interim rules have been made: (1) The period during which contractors may rely on self-representation of small disadvantaged status by prospective subcontractors has been extended from July 1, 1999, to the effective date of this rule (Oct. 1, 1999) and (2) references to the list of recognized Small Disadvantaged Businesses to have been maintained by the Small Business Administration (SBA) have been replaced by references to SBA's PRO-Net.

The point of contact for questions on this FAC is Robert Webb, at 202-586-8264, or at e-mail [robert.webb@hq.doe.gov](mailto:robert.webb@hq.doe.gov).

  
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