



ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA. It is intended for use by the procurement professionals of DOE, primarily Contracting, and other officials of DOE and NNSA that are involved in the acquisition process. Other parties are welcome to its information, but definitive interpretation of its effect on contracts, and other related procedures, if any, may only be made by DOE and NNSA Contracting Officers.

Subject: Implementation of Executive Order 14271 - Ensuring Commercial, Cost-Effective Solutions in Contracts.

References:

Executive Order 14271 - Ensuring Commercial, Cost-Effective Solutions in Federal Contracts
DOE Acquisition Guide Chapter 71.1 Headquarters Business Clearance Review Process
Federal Acquisition Streamlining Act of 1994 (Public Law 103-355, as amended) (FASA).
41 U.S.C.3307 - Preference for commercial products and commercial services
FAR Part 12 - Acquisition of Commercial Products and Commercial Services
DEAR Part 912 - Acquisition Of Commercial Items

When is this Acquisition Letter (AL) effective?

This AL is effective immediately upon issuance.

When does this AL expire?

This AL remains in effect until superseded or canceled.

Who is the intended audience for this AL?

Department of Energy (DOE) and National Nuclear Security Administration (NNSA) Heads of Contracting Activity (HCAs), Procurement Directors (PDs), and Contracting Officers (COs) are the intended audience for this AL.

Who are the points of contact?

DOE personnel may email questions regarding this AL to DOE_OAPMPolicy@doe.gov.

NNSA personnel may contact the Acquisition Policy and Oversight Division, Policy & Oversight Branch (NA-PAS-111), at (505) 845-5639.

Need More Information on ALs?

For additional information on ALs and other issues, visit the website at:

What is the purpose of this AL?

This purpose of this AL is to provide information and guidance regarding maximizing commercially available products and services to the maximum extent practicable through review and approval requirements for the procurement of non-commercial items as well as for processing reviews and approvals for solicitations and contracts¹ for non-commercial products or services², thereby reducing unnecessary expenditures and integrating private sector innovations into government operation.

What types of contracts are affected by this AL?

This AL is applicable to all solicitations, new contracts and contract modifications (that modify scope/requirements), including Management & Operating contracts (excluding construction) that exceeds the simplified acquisition threshold; and that are not otherwise excluded. The following are excluded-

- Leasing acquisitions, which are neither a product or service, thus are outside the scope of the Construction contracts, which are neither a product or service, thus are outside the scope of the E.O.;
- Small Business Innovation Research (SBIR) procurements, which support commercialization of innovations derived from small business research and development.
- Procurements at or below the simplified acquisition threshold, as such acquisitions generally are not required to follow the requirements described in the E.O.
- Existing contracts and orders, including modifications, as the E.O. applies only to open, pending actions, and new policies are not traditionally applied retrospectively because doing so may inflict undue burden; and
- Any orders placed and BPAs established against Federal Supply Schedule (FSS) contracts, as the FSS program is for commercial supplies and services only.
- Procurements made by DOE on behalf of other agencies where the requesting agency has already provided EO 14271 approval. A copy of the approval document must be placed in the contract file.

What is the background information?

To enhance its ability to acquire commercial products and services more efficiently while ensuring the best value for taxpayer dollars, the federal government passed the Federal Acquisition Streamlining Act of 1994 (FASA). The law was a response to a recognized need for comprehensive reform in federal procurement processes, which had become overly complex and burdensome. One of the Act's key provisions was defining commercial items more broadly to encourage agencies to procure off-the-shelf products instead of relying on custom solutions, which are often more costly and time-consuming. This change aimed to align federal purchases with the

¹ "Contracts" has the meaning as defined in FAR 2.101 and includes blanket purchase agreements, orders under blanket purchase agreements, and orders under indefinite delivery, indefinite quantity contracts.

² While Construction and Architect-Engineer contracts awarded in accordance with FAR Part 36 do not follow FAR Part 12, *Acquisition of Commercial Products and Commercial Services*, FAR Part 36 incorporates provisions and clauses that are generally consistent with customary commercial practices in the construction industry. Therefore, if market research deems the construction services to be commercially available, then the contract does not need to be approved in accordance with this acquisition letter.

marketplace and leverage market competition and resulted in the law's provisions being incorporated in the Federal Acquisition Regulation (FAR) under Part 12, *Acquisition of Commercial Products and Commercial Services*, requiring commercial products or commercial services to be preferred when they are available to meet the needs of the agency.

On April 15, 2025, President Trump signed Executive Order (E.O.) 14271, *Ensuring Commercial, Cost-Effective Solutions in Federal Contracts*, which directs executive agencies to procure commercially available products and services to the maximum extent practicable. This Order's objective is to eliminate unnecessary expenditures of taxpayer dollars by ensuring that federal agencies fully leverage commercial offerings instead of custom solutions as well as streamline government contracting practices by focusing on aligning with objectives of commercial utilization as required by FASA.

To achieve that goal, agencies are required to conduct a detailed review of pending solicitations for non-commercial products or services within 60 days of the Order's issuance. This review was aimed at consolidating these actions into proposed applications for approval to purchase such items, justifying why no commercial alternatives are available as establishing an ongoing obligation for agencies to submit detailed reports on their compliance with and progress toward implementing the policies set forth in the order, and reinforcing the accountability of procurement practices in federal contracting.

What is the guidance contained in this AL?

COs must prioritize commercially available products and services, including those that can be modified to meet agency requirements, in accordance with FASA, E.O. 14271, and FAR Part 12. Procurements at or below the simplified acquisition threshold are not required to follow the requirements described in the E.O.

Solicitation Requirement Considerations

DOE and NNSA COs will need to collaborate with Programmatic Procurement Officials (i.e., Contracting Officer Representatives, Technical Monitors, Program Managers) to ensure market research is performed in a manner that maximizes the availability of commercial products and services. COs should consider factors such as total cost of ownership and lifecycle costs of a commercial solution compared to a non-commercial option, before considering non-commercial alternatives.

Non-Commercial Product or Service Application Review

Effective from June 15, 2025 onward, COs must gather and submit their market research and pricing analysis to justify any non-commercial procurement to the Senior Procurement Executive (SPE). For DOE, before SPE review, the market/pricing package should be provided to the Field Assistance and Oversight Division (MA-621) utilizing the procedures detailed in DOE Acquisition Guide, Chapter 71.1, *Headquarters Business Clearance Review Process*, or for NNSA using an applicable process. This Division is responsible for the Headquarters Business Clearance Review (BCR) process, whereby certain procurement actions (e.g., solicitations, contracts, major contract changes, etc.) are required to be reviewed and approved by the DOE SPE as a condition for execution. For DOE to ensure compliance with E.O. 14271, non-commercial products and services are now subject to the BCR process.

Requests for approval for requesting non-commercial products or services should include the following:

- A description of the proposed procurement (i.e. Statement of Work, Performance Work Statement, Statement of Objectives);
- Rationale for pursuing a government-unique, custom-developed or otherwise non-commercial product or service; and
- The market research report, to include detailed market research activities and price analysis used to determine the availability of commercial products and services to meet the government's needs and to justify the procurement of a non-commercial product or service, as required by 41 U.S.C. 3307(d), 10. U.S.C. 3453(c), and 3453(d), as applicable.

Specific information on what is required for non-commercial product or service approval is provided in Attachment 1, *Approval Request for Purchase of Non-Commercial Products Or Services*.

MA-621 will assess each proposed contract for compliance with FASA, including the adequacy of the market research and may make recommendations, including potential commercial products or services that may be appropriate to meet mission requirements. The SPE is the ultimate approver or denier of the proposed action.

For DOE, further information on submitting for SPE approval is available at the [Field Assistance & Oversight Division](#) SharePoint site or by contacting the Field Assistance and Oversight Division (MA-621) at oam_bcr@hq.doe.gov.

For NNSA, contact the Acquisition Policy and Oversight Division, Policy & Oversight Branch (NA-PAS-111), at (505) 845-5639 for coordination and approval of procurement of non-commercial products or services.

Annual Reporting

Each agency's approval authority must provide an annual report to the Director of OMB detailing compliance with FASA and progress in implementing the policies of this order. Further information on the format and point of contact for submission of the report will be provided later by OMB. Each DOE HCA will be responsible for tracking and collecting solicitations and awards related to non-commercial acquisitions acquired through their procurement efforts over the course of each fiscal year and submit their information to the Field Assistance and Oversight Division (MA-621) thirty days from the fiscal year close (i.e. October 30³). Reports from NNSA should be reported to the Acquisition Policy and Oversight Division, Policy & Oversight Branch (NA-PAS-111) thirty days from the end of the fiscal year. An example of what reporting elements will be requested by OMB is available in Attachment 2, *Non-Commercial Sample Elements Report*.

³ Starting in FY 2026. Therefore, first reporting period is expected to be due on October 30, 2026

Oversight of Non-Commercial Procurements

By August 22, 2025, and annually thereafter, the Department must provide an annual report to the Director of OMB detailing compliance with FASA and progress in implementing the policies towards meeting the E.O.'s objectives.