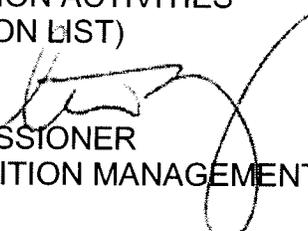


June 26, 2009

**FAS INSTRUCTIONAL LETTER 2009-04**MEMORANDUM FOR ALL FAS ACQUISITION ACTIVITIES  
(QV DISTRIBUTION LIST)

FROM: STEVEN J. KEMPF   
ASSISTANT COMMISSIONER  
OFFICE OF ACQUISITION MANAGEMENT (QV)

SUBJECT: Establishment of Clearance Panels for Acquisitions in Support of  
the American Recovery and Reinvestment Act of 2009

1. Purpose. The purpose of this Instructional Letter (IL) is to establish Clearance Panel (CP) procedures for acquisitions in support of Public Building Service (PBS) initiatives outlined in, Public Law 111-5, the American Recovery and Reinvestment Act of 2009 (Recovery Act).

2. Background. On February 17, 2009, the President signed Public Law 111-5, the Recovery Act. The Act provides for unprecedented levels of accountability and transparency, and provides funding to:

- Invest in clean, efficient, American energy;
- Help transform our economy through investments in science and technology;
- Modernize roads, buildings, transit, and waterways;
- Enable education for the 21<sup>st</sup> century;
- Lower healthcare costs;
- Save private sector jobs; and
- Protect vital services.

PBS is responsible for the design, construction, operation, and maintenance of thousands of Federally-owned facilities that house more than one million civilian employees at 60 different agencies.

The Recovery Act directs to PBS approximately \$750 million to renovate and construct Federal buildings and courthouses, \$300 million to renovate and construct land ports of entry, and \$4.5 billion to convert Federal buildings to high-performance green buildings.

The Federal Acquisition Service (FAS) is partnering with PBS to provide needed acquisition support to fulfill the above noted PBS initiatives outlined in the Recovery Act. A cross functional core team, the Federal Acquisition Service Stimulus Team (FASST), has been established to support this effort. The team is working closely with PBS partners to address the immediate need for Blanket Purchase Agreements (BPAs) against Federal Supply Schedules (FSS) and other potential Indefinite Delivery, Indefinite Quantity (IDIQ) acquisition

vehicles in four broad functional areas:

- Acquisition Management;
- Project Management;
- Energy Services; and
- Legal Support Services.

These FSS BPAs and other potential IDIQ acquisition vehicles are being developed nationally with support from FAS employees across the country. Orders against these FSS BPAs or IDIQ acquisition vehicles will be awarded at the PBS regional level.

3. Effective Date. Date of signature.

4. Termination Date. This IL expires one year from the effective date unless cancelled, extended, or incorporated into a handbook.

5. Applicability. This IL applies ONLY to the FASST acquisitions in support of the PBS initiatives outlined in the Recovery Act.

6. Reference to Regulations. This IL supplements the requirements of Acquisition Letter FX-03-1, Supplement No. 3, Acquisition Quality Measurement and Improvement Program.

7. Instructions/Procedures.

- A. CP Purpose: The purpose of establishing CP procedures for reviewing certain acquisition actions is to help ensure compliance with all applicable acquisition laws and regulations, and improve the quality of the acquisitions awarded in support of PBS initiatives outlined in the Recovery Act.
- B. CP Threshold: These procedures apply to FASST new awards - including contracts, BPAs, and modifications—valued above \$ 5.5 million, and other FASST acquisition actions as determined appropriate by the CP.
- C. CP Membership Roles: The roles of CP members are outlined below:
  - i. CP Chairperson (FASST Team Acquisition Program Manager & Deputy): The CP Chairperson is responsible for helping to ensure that the acquisition is performed in accordance with all applicable laws and regulations, and for chairing the CP. The CP Chairperson shall help ensure orderly, effective, and efficient resolution of all issues identified before the CP. At the end of each acquisition action requiring review, the CP Chairperson must sign the CP recommendation (see Appendix A), either indicating acceptance, acceptance with recommended changes, or rejection of the acquisition action by the CP.
  - ii. Office of Acquisition Operations or other Assigned FASST Contracting Officer (AOCO): The AOCO is responsible for managing the execution of the acquisition pursuant to all applicable laws and regulations. The AOCO shall consider and incorporate to the extent possible all CP recommendations in executing the acquisition.

- iii. FAS Office of Acquisition Management Representative: The FAS Office of Acquisition Management Representative shall advise the CP on all applicable laws and regulations and identify all policy issues that must be addressed by the FAS Office of Acquisition Management.
- iv. Regional Representative: The Regional Representative shall advise the CP and provide a regional perspective on the acquisition strategy, approach, and execution.
- v. Office of General Counsel or Office of Regional Counsel Representative: Legal Counsel shall advise the CP on issues of legal sufficiency and identify any legal issues and risks that need to be addressed by the CP. Legal Counsel will document legal sufficiency concerns and other risk areas, and will indicate legal sufficiency or recommendations for mitigating legal risks and concerns. Legal Counsel will sign the CP recommendation (See Appendix A) to indicate legal sufficiency of the acquisition action being reviewed.
- vi. CP Coordinator: The CP Coordinator is the official record keeper. The CP Coordinator is required to organize all meetings; disseminate documents; record the CP's recommendations, comments, and conditions; and file documents, in electronic form, in a location maintained by the Coordinator. The Coordinator shall notify the CP Chairperson by email of issues that need to be addressed.
- vii. Other Attendees: Other GSA employees or attendees may attend CP sessions upon approval of the CP Chairperson.

#### D. CP Review Process:

- i. Submission of Acquisition Review Package: Prior to each acquisition action being reviewed by the CP, the AOCO is responsible for submitting a complete acquisition review package to the CP for their examination including the CP checklist and all required acquisition supporting documentation (See Appendix A). The AOCO will submit the acquisition review package to the CP by email. If a review meeting is required, the AOCO will submit the acquisition review package, no later than three full business days before the review meeting. The CP Chairperson may extend the timeframe for submission and examination of the acquisition review package by the CP as needed. If the timeframe is extended, the CP coordinator will notify the CP members.
- ii. CP Review Meetings: Certain acquisition actions may require a CP review meeting. The requirements for a CP review meeting are outlined below:
  - 1. Request for a Review Meeting: The AOCO is responsible for requesting the CP Coordinator to schedule a review meeting.
  - 2. Review Meeting Location/Time: The CP Coordinator will schedule meetings at a time most convenient for all CP members. CP members should attend all review meetings either virtually or in person.
  - 3. Absentee CP Members: In the event that any CP member is unable to attend the review meeting, the absent CP member must send written comments to the CP Coordinator, who will distribute them to the CP Chairperson, prior to the review meeting, or arrange for a substitute representative with the CP Chairperson. In

the event that the CP Chairperson is unavailable to attend the CP meeting, the CP Chairperson shall designate a replacement to chair the CP. This notification shall be made to the CP coordinator, who will then communicate it to the CP.

4. Special Review Meetings: There may be a need for the CP to meet on an expedited basis to manage urgent requirements, without the three business day notice, for the review meeting. The CP Chairperson will address such situations by calling a special review meeting of the CP.
- iii. CP Recommendation: For each acquisition action requiring review, the CP will examine the acquisition review package to determine whether the documentation is sufficient, complete, and compliant with all applicable acquisition laws and regulations. The CP will attempt to reach consensus as a panel on the CP's recommendation for each acquisition action. However, the CP Chairperson will signal the CP's recommendation by signing the CP Checklist (See Appendix A), which records the examination of the acquisition review package by the CP. The CP Chairperson will send the CP Checklist including attaching the CP's summarized comments to the AOCO and all CP members by close of business on the day after the CP review meeting is held or by close of business one day after receipt of the acquisition review package for acquisition action not requiring a review meeting.

If the AOCO wishes to proceed without the acceptance of the CP then the AOCO shall first present the issue of disagreement to the Assistant Commissioner for the Office of Acquisition Management and Assistant Commissioner for the Office of General Supplies and Services. If agreement cannot be reached among the Assistant Commissioners (ACs), the AOCO and the ACs will present the issue to the Head of the Contracting Activity (HCA), the FAS Commissioner, for final resolution.

The CP recommendation will in no way circumvent the AOCO's authority. The CP only acts as an advisory body to ensure compliance with all applicable acquisition laws and regulations, and to improve the quality of the acquisition. If AOCO receives concurrence to proceed with the acquisition after examination of the acquisition action by the ACs or the HCA, AOCO shall document the contract file as to the reason why proceeding with the acquisition action is necessary and, if applicable, explaining the rationale for not accepting the CP's recommended changes.

- E. Acquisition Actions Requiring CP Review: The following indicates the acquisition actions and the content of each acquisition review package required to be submitted and reviewed by the CP:
  - i. Acquisition Strategy Review: The CP will conduct a review meeting to discuss the overall acquisition strategy. The AOCO shall provide the following documents in the acquisition strategy review package:
    - CP Checklist (See Appendix A);
    - Market Research;
    - Rough Order of Magnitude Government Cost Estimate; and
    - Proposed Acquisition Strategy.

The consensus of the recommendations reached by CP in the review meeting will be documented by the AOCO in the formal acquisition plan.

ii Acquisition Plan Review: The CP will not conduct a review meeting to discuss the acquisition plan. However the AOCO will submit the following documents as an acquisition plan review package for examination by the CP:

- CP Checklist (See Appendix A);
- Written Acquisition Plan; and
- Back-up information from Acquisition Strategy Review.

CP examination is required before the acquisition plan is circulated through the normal GSA/FAS Acquisition Plan approval process for acquisitions.

iii Draft Solicitation/Request for Quote (RFQ) Review: The CP will conduct a review meeting to discuss the draft Solicitation/RFQ. The AOCO will submit the documents listed below as the acquisition Draft solicitation/RFQ review package for examination by the CP:

- CP Checklist (See Appendix A);
- Draft Solicitation/RFQ;
- Draft Technical Evaluation Plan;
- Draft Source Selection Plan;
- Approved Acquisition Plan and any other previously approved or relevant documentation required for reference purposes/consistency checks only;
- Draft Determination and Findings (D&F), if applicable;
- Draft Justification and Approval (J&A), if applicable; and
- Any other documents relevant to the acquisition action being submitted for review, including Independent Government Cost Estimate.

iv. Preaward Review: The CP will conduct a review meeting to examine the summary of the award recommendation and supporting documentation, to determine if they are sufficient to support an award recommendation decision. This CP review meeting will take place in advance of any Contract Clearance Panel that is held as a normal course of FAS acquisition award procedures. In addition to the documents required for the draft Solicitation/RFQ acquisition review package, the AOCO shall present and submit the following documents as part of the acquisition preaward review package:

- CP Checklist (See Appendix A);
- Price Negotiation Memorandum;
- Technical Evaluation Board (TEB) Consensus Report;
- Proposed or Draft IDIQ or BPA Award (Sections B-J);
- Approved Acquisition Plan and any other previously approved or relevant documentation required for reference purposes/consistency checks only, including final or amended IDIQ or BPA (Sections B-M) and Final Technical Evaluation Plan; and

- Any other documents relevant to the acquisition action being submitted for review.
- v. Contract Clearance Panel: The CP Chairperson will be added as a Contract Clearance Panel member and will participate in any Contract Clearance Panels held for FASST Recovery Act acquisitions in support of PBS.
- F. Retention of CP Files: The CP recommendations shall be retained and incorporated into the contract file (See appendix A).
- G. Lessons Learned: The CP Coordinator shall document lessons learned, best practices, and issues resolved in each review meeting through meeting minutes, which will be posted in the FASST Quick Place. (Go to:  
<http://gsaworkspaces.gsa.gov/1gsapartnership>)

**Appendix A**

**Federal Acquisition Service Stimulus Team (FASST)  
Clearance Panel (CP) Checklist**

**Contract Type** (e.g., Blanket Purchase Agreement (BPA)/Indefinite Delivery /Indefinite Quality (IDIQ) \_\_\_\_\_

| <b>Title</b>                                      | <b>Official</b> |
|---------------------------------------------------|-----------------|
| AOCO:                                             |                 |
| FAS Office Acquisition Management Representative: |                 |
| Regional Representative                           |                 |
| Legal Counsel:                                    |                 |
| CP Coordinator:                                   |                 |
| CP Chairperson:                                   |                 |
| Other:                                            |                 |

Review Type:       Acquisition Strategy     Acquisition Plan     Draft  
 Solicitation/Request for Quote (RFQ)     Preaward

**Documents/Information to be Submitted to the CP as part of the Acquisition Review Package[s]**

**Acquisition Strategy Review Session**

|                                                   | <b>Yes/No</b> | <b>Date</b> |
|---------------------------------------------------|---------------|-------------|
| Market Research                                   | _____         | _____       |
| Rough Order of Magnitude Government Cost Estimate | _____         | _____       |
| Proposed Acquisition Strategy                     | _____         | _____       |

**Acquisition Plan Review**

|                                                      | <b>Yes/No</b> | <b>Date</b> |
|------------------------------------------------------|---------------|-------------|
| Written Acquisition Plan                             | _____         | _____       |
| Back-up information from Acquisition Strategy Review | _____         | _____       |

**Draft Solicitation/RFQ Review**

|                                 | <b>Yes/No</b> | <b>Date</b> |
|---------------------------------|---------------|-------------|
| Draft Solicitation/RFQ          | _____         | _____       |
| Draft Technical Evaluation Plan | _____         | _____       |

|                                                                                                                                                |       |       |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------|-------|
| Draft Source Selection Plan                                                                                                                    | _____ | _____ |
| Approved Acquisition Plan and any other previously approved or relevant documentation required for reference purposes/consistency checks only; | _____ | _____ |
| Draft Determination and Findings (D&F), if applicable                                                                                          | _____ | _____ |
| Draft Justification and Approval (J&A), if applicable                                                                                          | _____ | _____ |
| Any other documents relevant to the acquisition action being submitted for review, including Independent Government Cost Estimate              | _____ | _____ |

| <b>Preaward Review:</b>                                                                                                                                                                                                                  | <b>Yes/No</b> | <b>Date</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|-------------|
| Price Negotiation Memorandum                                                                                                                                                                                                             | _____         | _____       |
| Technical Evaluation Board (TEB) Consensus Report                                                                                                                                                                                        | _____         | _____       |
| Proposed or Draft IDIQ or BPA Award (Sections B-J)                                                                                                                                                                                       | _____         | _____       |
| Approved Acquisition Plan and any other previously approved or relevant documentation required for reference purposes/consistency checks only, including final or amended IDIQ or BPA (Sections B-M) and Final Technical Evaluation Plan | _____         | _____       |
| Any other documents relevant to the acquisition action being submitted for review                                                                                                                                                        | _____         | _____       |

**Review and Recommendation by CP**

This submission has been reviewed on: \_\_\_\_\_.

The CP recommendation is to:

- Accept.
- Accept with recommended changes incorporated; see attached recommended changes requested. No need to return to CP.
- Reject; see attached comments and changes requested. Package must be scheduled for resubmission to the CP before its release.

|                              |       |
|------------------------------|-------|
| _____                        | _____ |
| CP Chairperson (Chairperson) | Date  |

|                   |       |
|-------------------|-------|
| _____             | _____ |
| Legal Concurrence | Date  |

Attachments: