

June 30, 2011

FAS INSTRUCTIONAL LETTER 2011-15

FROM: HOUSTON W. TAYLOR
ASSISTANT COMMISSIONER
OFFICE OF ACQUISITION MANAGEMENT (QV)

SUBJECT: Revision of the Acquisition Quality Measurement and Improvement Program

1. Purpose. The purpose of this Instructional Letter (IL) is to 1) update and revise the policies and procedures of the Acquisition Quality Measurement and Improvement Program, and 2) increase enforcement of four existing contract quality control mechanisms (pre-negotiation clearance panels, clearance panels or review boards, procurement management reviews, and other internal contract reviews).
2. Background. On March 25, 2003, the former Federal Supply Service (FSS) Office of Acquisition (FC) issued Acquisition Letter (AL) FC-03-1 to establish an Acquisition Quality Measurement and Improvement Program. It established the requirement for and guidance on the use of pre-negotiation clearance panels (PNCPs) and the framework for contract reviews performed by the former Acquisition Management Center (FCO). On July 12, 2004, and October 28, 2004, Supplements 1 and 2 were issued to modify the contract review process established in the original AL. On February 15, 2005, Supplement 3 was issued to add reporting requirements to the PNCP process.

The goal of the Program continues to be to: establish a process whereby Federal Acquisition Service (FAS) acquisition activities can evaluate the quality of contract actions; identify those areas where improvement is needed; assist acquisition activities to achieve improvement in those areas; and communicate best practices to improve the overall quality of our acquisition programs.

The Program measures compliance of contract actions. These measurements are used to provide a baseline against which activities can track improvements in the quality of contract actions. The Program helps identify areas where more effective training of the acquisition workforce is needed, and provide for greater adoption of innovative acquisition strategies and other

best practices.

In February 2005, the Government Accountability Office (GAO) issued Report GAO-05-229, Contract Management: Opportunities to Improve Pricing of GSA Multiple Award Schedules Contracts. In September 2009, the General Services Administration (GSA) Office of Inspector General (IG) issued Report A070118/Q/A/P09007, Review of Consistency in Implementing Policy Across Acquisition Centers. Both reports questioned the enforcement of the policies and procedures outlined in the Acquisition Quality Measurement and Improvement Program. More specifically, the reports pointed out that the control functions or oversight procedures were not being enforced and the consequences of not doing so. In April 2010, GAO issued Report GAO-10-367, Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprisewide Contracts. The report included a recommendation to strengthen the process that has been initiated to ensure that offers that meet the pre-negotiation clearance panel threshold receive a panel review.

As a result, [AL FC-03-1](#) and its supplements are effectively being combined, revised, and added to streamline the processes and insert additional management controls.

3. Effective Date. Date of signature.
4. Termination Date. This IL remains in effect until it is cancelled.
5. Applicability. This IL applies to all FAS acquisition activities, with the exception of section 7(A), Pre-negotiation memorandum clearance panels, which only applies to the Federal Supply Schedule (FSS) Program.
6. Reference to Regulations. This IL replaces [Acquisition Letter \(AL\) FC-03-1](#) and all of its Supplements.
7. Instructions / Procedures.

A. Pre-negotiation memorandum clearance panels (PNCPs)

i. Purpose:

The general purpose of the PNCP is to ensure the overall quality of contract actions, including initial contract awards, modifications, and the exercise of option periods. These reviews only apply to the award and administration of FSS contracts and do not apply to Blanket Purchase Agreements (BPAs) and task and delivery orders placed against FSS contracts.

ii. Criteria for Use:

Contracting Officers or Contract Specialists (herein referred to as CO) shall obtain concurrence from a PNCP for the award

of new contracts and the exercise of contract options that meet established dollar thresholds prior to holding discussions with the offeror or contractor.

- PNCP procedures may also be applied to sensitive acquisition actions, such as the first contract negotiations under new programs, or offers with audit findings that significantly impact the negotiation objectives.
- PNCP procedures may be used for extensions of contracts with unfavorable histories (e.g. poor past performance; sales reporting or industrial funding problems; exceptional contract sales relative to initial estimates; etc.) at the discretion of each business portfolio Director of Acquisition Operations.
- For new programs, the market research used to establish the program should provide a basis for estimating the probable value of the schedule. If the new program has the potential of becoming a major program, PNCPs for offers from the industry leaders may be conducted.

iii. Thresholds:

Each Schedule has an established PNCP threshold for new contract awards and the exercise of option periods. For new contract awards, the thresholds are based on the top five percent of estimated contract dollar values. For contract options, the thresholds are based on actual contract sales of the last five years. There are no thresholds for modifications on existing contracts; however, it is encouraged that PNCPs be held to review certain modification actions that are determined to be high dollar value or high risk. This determination is at the discretion of each Acquisition Operations (AO) office.

Refer to Appendix A.

iv The PNCP Process:

FAR 15.406-1 specifies that pre-negotiation memorandum objectives must be established based on the results of the CO's analysis. The goal of the PNCP is to ensure that the CO has met this requirement and is fully prepared for negotiations.

- Panel Membership:

The CO presents the case to the PNCP. They must be able to demonstrate a familiarity with all aspects of the solicitation and the offer, a fluency in the presentation of the negotiation objectives, and an ability to respond to probable counter-arguments from the offeror. The panel chair may modify the presentation content as appropriate to the offer.

The Center Director will designate an independent chair of the PNCP. The chair may be a disinterested division director, or any other designated person. The chair should have substantial contracting experience and be outside of the direct line of authority responsible for the contract.

Other panel members will include the CO's immediate supervisor and the division director responsible for the contract.

The PNCP chair may invite other technical personnel or specialists to participate on the panel, as considered appropriate. The following are examples of other specialists that may be included in the PNCP:

- The cognizant auditor when an audit has been performed;
- A product or service expert;
- The acquisition activity's designated legal counsel whenever significant legal issues are anticipated (e.g. unique interpretations of solicitation provisions or proposed substitute language); and
- Other staff members when issues concern interpretation of, or deviations from, FAS policy or discussion of unique pricing issues.

The panel members must bring any legal, regulatory or policy compliance issues to the attention of the CO. These issues must be addressed and reconciled.

PNCP members may contribute comments and suggestions based on their business judgment and contracting experience and knowledge. Comments and suggestions such as these should be considered by, but are not binding upon, the CO.

- Documentation:

The CO must provide each participant with electronic copies of the draft pre-negotiation memorandum in advance of the PNCP. The draft pre-negotiation memorandum must be sent in adequate time for the panel members to become familiar with the procurement. Critical portions of the offer (e.g. price proposal, commercial sales practices (CSP), acquisition pricing information, proposed changes to the solicitation's terms or conditions, and the audit report (if any)) shall be made available to any panel member upon request. Other documents, such as past performance information, proposed subcontracting plan, and warranty or data rights provisions, should be provided by the CO during the PNCP meeting when it is anticipated they will impact negotiations. Copies of any documents provided must be identified as Procurement Sensitive material and properly safeguarded by the panel members. The members of the panel will be authorized to view procurement sensitive information as a part of performing their official functions. All panel members should be aware that by participating as a PNCP member they are participating personally and substantially in the acquisition action (FAR 3.104-3). All panel

members outside the contracting arena, e.g. contracting personnel who do not participate in the day-to-day acquisition process, shall sign a Non-Disclosure and Conflict of Interest Memorandum prior to review or receipt of any documents.

- **Concurrence:**

If the pre-negotiation memorandum is acceptable as prepared, the members of the PNCP will concur on the document at the conclusion of the meeting. A separate PNCP concurrence sheet will be placed on top of the approved pre-negotiation memorandum. This will be signed by the panel chairperson and panel members. If the pre-negotiation memorandum is not acceptable, and revisions are necessary, a PNCP memorandum will be prepared that documents all recommended changes for approval. This can be an addendum to the pre-negotiation memorandum. The CO must submit the amended pre-negotiation memorandum to the panel members. The panel members should respond to the CO within two business days after receipt of the amended pre-negotiation memorandum. The panel members may either concur with the pre-negotiation memorandum as written or advise that the concurrence will be effective upon completion of additional corrections. The concurrence is evidence that the negotiation objectives are considered reasonable, appropriate, and the result of sound business judgment. Copies of the signed PNCP memorandum will be maintained in the contract file under Tab 14.

The CO may open negotiations after receiving concurrence from the PNCP panel members. However, the CO can proceed with negotiations without concurrence of the panel by documenting the file as to the reason why the action is necessary and, if applicable, explaining the rationale for rejecting the recommendations of the panel. The decision to proceed without panel concurrence must be approved by the Center Director.

- **Negotiations:**

New negotiation objectives may be established during the negotiations, based on new information, clarifications, or convincing arguments. If applicable, the auditor should be provided updated information that may significantly affect the audit results in accordance with FAR 15.404-2(c)(3). Changes to the negotiation objectives should be part of the price negotiation memorandum (PNM). Modification of the pre-negotiation memorandum is not appropriate.

If, during negotiations, it becomes apparent that the price objective will not be reached, the CO should either recommend that the offer not be awarded or provide the appropriate documentation explaining the rationale of the pending award with the recommendations to the chair of the PNCP. The panel chair may concur or recommend alternative resolutions. If the PNCP chair is not available, the direct line division director will select any panel member, other than the negotiator's supervisor or him/herself, for consultation on the revision of price

objectives.

The final decision whether or not to award a contract rests with the CO.

- PNCP Waivers:

Prior to waiving a PNCP due to exigent circumstances, the CO must obtain written approval from their respective Director of Acquisition Operations, as well as the MAS Program Office. The written approval shall become a part of the contract file. Prior to contract award, a detailed justification shall be included in the contract file under Tab 14.

v. Oversight:

- AM will automatically adjust the thresholds annually on 10/31 based on the top five percent of estimated contract values established in the previous fiscal year. If the threshold established by the automatic adjustment is not reasonable because of other business-related factors, the Director of Acquisition Operations for a business portfolio may submit a threshold adjustment request to AM for approval. The request must be supported with data-driven rationale.
- 15 days after the end of each fiscal quarter, the Director of Acquisition Operations for each respective business portfolio will report to the Assistant Commissioner of its business portfolio and to the Assistant Commissioner of AM on the PNCPs performed during the prior three month period. The report will contain the following information:
 1. A list of the contract awards, option extensions, and any modifications that underwent a PNCP.
 2. An indication whether or not the PNCP reviewed the negotiation objectives in accordance with procedures established above. Also include whether or not negotiation objectives were met.
 3. An explanation of why a listed contract action was not reviewed by a PNCP (see PNCP waivers above).
 4. If applicable, a listing of PNCPs held for contract actions below the threshold.
 5. Comments on any or all of the following: the effectiveness of the panels, recommendations for improvement to the PNCP procedures, or request for modification of the activity's PNCP threshold.
 6. Defined procedures on how the panel membership was selected for each PNCP.
- PNCP Reports: Assistant Commissioners may use the report to measure activity compliance with the IL and to

recommend changes in the program or in activity thresholds to AM. AM will use the report to discover best practices and pricing trends which may be incorporated into future policy guidance or training.

B. Clearance Panels or Board Reviews

i. Purpose:

The establishment of clearance panels or board reviews applies to FAS acquisition activities, other than the FSS Program, who do not adhere to the policies and procedures of the PNCP. The purpose of establishing a clearance panel or board for reviewing acquisition actions is to help ensure compliance with all applicable acquisition laws and regulations, and to improve the quality of the acquisitions awarded.

ii. Criteria for Use:

The Director of the Office of Acquisition Operations for each business portfolio is required to have written procedures in place for conducting clearance panels or board reviews with the exception of the establishment and administration of FSS contracts and acquisition actions subject to the procedures outlined in IL 2009-04, Establishment of Clearance Panels for Acquisitions in Support of the American Recovery and Reinvestment Act of 2009. The procedures must be submitted to AM and receive written concurrence from the Assistant Commissioner for AM. After receiving concurrence, the Director of Acquisition Operations for each respective business portfolio shall post a copy of their contract clearance panel or board review procedures on the FAS Electronic Centralized Acquisition Tool (eCAT). Any revisions to these procedures must be submitted to the Assistant Commissioner for AM for concurrence.

iii. The Contract Clearance Panel or Board Review Process:

As stated above, the process is determined by each business portfolio with concurrence from AM.

C. Procurement Management Reviews (PMRs)

i. Purpose:

The Office of Governmentwide Policy (OGP), Procurement Management Review (PMR) Division, is responsible for conducting Procurement Management Reviews (PMR) on all GSA acquisition activities. The purpose of the PMR is to ensure GSA acquisition activities comply with procurement laws and regulations; to assist acquisition activities in preparing for any external agency audits; and in improving the operational/transactional effectiveness and efficiency.

Generally, the PMR focuses on: (1) analyzing, evaluating, and validating the acquisition process for regulatory and statutory compliance; (2) evaluating the effectiveness of internal controls, procedures, and/or policies; (3) assessing operational effectiveness of training, (4) identifying need of improvement; (5) managing risks to achieve better outcomes, and (6) identification of good practices and /or lessons learned.

ii. The PMR Process:

- Historically, the PMR team utilizes checklists to conduct the review of a contract file. Acquisition activities should ensure that contract files are complete and in compliance with all applicable policies and regulations.
- The details of the PMR process are documented in the PMR Reference Guide, which can be found on the OAP homepage on GSA Insite.

The Reference Guide includes: an overview of the PMR Program, pre-PMR planning, conducting the PMR, preparing and issuing the report, and closing the report.

iii. Oversight:

The PMR Division:

- Provides tracking reports and trend analysis beyond the required measures. The trend analysis addresses GSA's areas of weakness to establish an internal training curriculum that will enhance the skill sets of the acquisition workforce;
- Publishes a summary report of significant observations across GSA (not segregated by regions but collectively) that addresses trend analysis of continuous problem areas as well as best practices; and
- "Closes the loop" on the PMR reports by providing valuable feedback to the acquisition activities on the assessments and corrective action where appropriate.

Acquisition Management (AM):

- Supplements the PMR Division oversight responsibilities noted above, including performing supplementary PMRs/quality reviews;
- Coordinates with the PMR Division to obtain their reports on acquisition issues on a fiscal year basis;

- Receives the reports and independently tracks deficiencies and trends of the different acquisition activities. Based upon these deficiencies and trends, the information is used to develop and implement policy changes, if needed, and to provide training for the acquisition workforce; and
- Shares best practice

D. Internal Contract Reviews:

- Purpose:

The purpose of conducting internal contract reviews is to validate, on an ongoing basis, that contracts are being awarded and administered correctly and in accordance with all policies and regulations. In essence, internal contract reviews provide each acquisition activity with an opportunity to identify strengths and weaknesses in their operations and take corrective action prior to any formal contract reviews, e.g. audits.

- Criteria for Use:

The Director of the Office of Acquisition Operations for each business portfolio is required to have written procedures in place for conducting internal reviews of contract files, modifications, and any other contract action that is deemed appropriate. The procedures must be submitted to AM and receive the written concurrence from the Assistant Commissioner for AM. After receiving concurrence, the Director of the Office of Acquisition Operations for each business portfolio shall post a copy of their internal contract review procedures on eCAT. Any revisions to these internal contract review procedures will need to be submitted to the Assistant Commissioner for AM for written concurrence.

Please note that AM may request access to contracts and may review any that may be of particular interest. Acquisition activities will be given a 10 day advance notice if transfer of a paper contract file is required. Otherwise, AM will utilize the Electronic Contract File (ECF).

- The Internal Review Process:

As stated above, the internal review process is determined by each business portfolio with concurrence from AM.

- Oversight:

- The Director of the Office of Acquisition Operations from each respective business portfolio is responsible

for submitting an annual report 30 days after the end of the fiscal year to the Assistant Commissioner of AM. The report will contain the business portfolio's internal oversight processes and highlight efforts undertaken during the year.

- AM may request a briefing within two weeks after receiving the report to discuss the results of the reviews.
- Reports: Assistant Commissioners may use the report to measure compliance with policy and regulations, as well as any internal operational guidance. AM will use the results of the report to develop and implement policy changes, if needed, and to provide training for the acquisition workforce

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Appendix A

Pre-Negotiation Clearance Thresholds

Office of General Supplies and Services (QS)

	Initial Award*	Option Period**
National Administrative Services & Office Supplies Acquisition Center (2QSA)		
36 – The Office, Imaging and Document Solution	\$ 2,000,000	\$ 2,000,000
67 -- Supplies & Services (Digital and Film-Based)	\$ 250,000	\$ 250,000
738 X – Human Resources & Equal Employment Opportunity Services	\$22,500,000	\$22,500,000
75 – Office Products/Supplies & Services & New Products/Technology	\$15,000,000	\$15,000,000
76 – Publication Media	\$ 900,000	\$ 900,000
81 I B – Shipping, Packaging & Supplies	\$ 1,300,000	\$ 1,300,000
Integrated Workplace Development Center (3QSA)		
58 I – Professional Audio/Video Telemetry/Tracking, Recording/Reproducing & Signal Data Solutions	\$ 1,250,000	\$ 1,250,000
71 – Furniture	\$ 250,000	\$ 250,000
71 II K – Comprehensive Furniture Management Services (CFMS)	\$ 1,000,000	\$ 1,000,000

72 – Furnishing & Floor Coverings	\$ 520,000	\$ 520,000
78 – Sports, Promotional, Outdoor, Recreation, Trophies & Signs (Sports)	\$ 710,000	\$ 710,000
Center for Facilities Maintenance & Hardware (6QSA)		
03FAC – Facilities Maintenance & Management	\$10,125,000	\$10,125,000
51 V – Hardware Superstore	\$ 5,000,000	\$ 5,000,000
Greater Southwest Acquisition Center (7QSA)		
541 – Advertising & Integrated Marketing Solutions (AIMS)	\$ 550,000	\$ 550,000
56 – Buildings & Building Materials/Industrial Services & Supplies	\$ 1,400,000	\$ 1,400,000
66 – Scientific Equipment & Services	\$ 550,000	\$ 550,000
73 – Food Service, Hospitality, Cleaning Equipment & Supplies, Chemicals & Services	\$ 425,000	\$ 425,000
736 – Temporary Administrative & Professional Staffing (TAPS)	\$ 500,000	\$ 500,000
84 – Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue, Clothing, Marine Craft & Emergency/ Disaster Response	\$ 700,000	\$ 700,000
Management Services Acquisition Center (AQSA)		
738 II – Language Services	\$ 1,000,000	\$ 1,000,000

871 – Professional Engineering Services	\$25,000,000	\$25,000,000
874 – Mission Oriented Business Integrated Services (MOBIS)	\$ 7,500,000	\$ 7,500,000
874 V – Logistics Worldwide (LOGWORLD)	\$ 5,000,000	\$ 5,000,000
899 – Environmental Services	\$ 8,750,000	\$ 8,750,000
00CORP – The Consolidated Schedule	\$15,000,000	\$15,000,000
Center for Innovative Acquisition Development (QSAB)		
520 – Financial & Business Solutions (FABS)	\$ 650,000	\$ 650,000

Office of Travel, Motor Vehicles, and Card Services (QM)

	Initial Award*	Option Period**
Office of Acquisition Operations (QMA)		
23 V – Vehicular Multiple Award Schedule (VMAS)	\$ 2,750,000	\$ 2,750,000
48 – Transportation, Delivery & Relocation Solutions	\$ 2,000,000	\$ 2,000,000
599 – Travel Services Solutions	\$ 1,000,000	\$ 1,000,000
751-- Leasing of Automobiles and Light Trucks	\$ 7,500,000	\$ 7,500,000

Office of Integrated Technology Services (QT)

	Initial Award*	Option Period**
IT Schedule Program 70 – Information Technology Equipment, Software, & Services	\$35,000,000	\$35,000,000

*** Initial award based on the top five percent of estimated contract dollar values.**

**** Option period based on actual sales for the previous 5 year contract period.**