

CHANGE REQUEST COVER SHEET

Change Request Number: 12-20

Date Received: 12/14/2011

Title: Sustainability/Environment/Energy

Name: Susan Freericks

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Policy OR Guidance: Policy

Section/Text Location Affected: 4.2.2, 4.2.3.3, 4.2.3.3.1, 4.2.3.3.2.8, 4.2.3.4 and 4.2.3.5

Summary of Change: Adding information to support the laws and regulations around sustainability, environment and energy

Reason for Change: FAA is required to acquire HPSB buildings to meet the mandates set by Congress.

Development, Review, and/or Concurrence: ALO-200, AGC-520, WLSA, ELSA, CLSA, ALO-300, Environmental Support

Target Audience: Real Estate Contracting Officers

Potential Links within FAST for the Change: N/A

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: N/A

Links for New/Modified Forms (or) Documents (LINK 1)

Links for New/Modified Forms (or) Documents (LINK 2)

Links for New/Modified Forms (or) Documents (LINK 3)

SECTIONS EDITED:

Acquisition Management Policy:

Section 4.2.2 : Guiding Principles [[Old Content](#)][[New Content](#)] [[RedLine Content](#)]

Acquisition Management Policy:

Section 4.2.3.3 : Requirements [[Old Content](#)][[New Content](#)] [[RedLine Content](#)]

Acquisition Management Policy:

Section 4.2.3.3.1 : Succeeding Leases/Renewal Leases [[Old Content](#)][[New Content](#)] [[RedLine Content](#)]

Acquisition Management Policy:

Section 4.2.3.4 : Procurement Method [[Old Content](#)][[New Content](#)] [[RedLine Content](#)]

Acquisition Management Policy:

Section 4.2.3.5 : Solicitation for Offers [[Old Content](#)][[New Content](#)] [[RedLine Content](#)]

SECTIONS EDITED:

Section 4.2.2 : Guiding Principles

Old Content: Acquisition Management Policy:

Section 4.2.2 : Guiding Principles

The acquisition of real property interests is unique from other types of procurements. The FAA's need for a specific site, location, or other special requirements further complicates the real property acquisition process. The goal is to acquire necessary real property interests to meet FAA mission requirements while fulfilling all mandated acquisition requirements. The acquisition process requires sound business judgment, and a competent and professional staff having the highest integrity, with authority delegated to the lowest responsible level.

The FAA real property procurement system will:

- Enable the selection of the lessor with the best value to satisfy the FAA's mission;
- Focus on timely, cost efficient, and quality contract performance;
- Promote discretion, sound business judgment, and flexibility at the lowest levels while maintaining fairness and integrity;
- Provide streamlined methods and initiate innovative processes to conduct timely and cost-effective procurements;
- Promote open communication and access to information throughout the procurement process and encourage use of electronic methods for information exchange;
- Encourage competition as the preferred method of contracting;
- Permit single-source contracting when necessary to fulfill the FAA's mission;
- Allow the use of a range of lease types and transactions best suited to a particular procurement;
- Provide an internal process for resolving protests and disputes in a timely, cost-effective and flexible manner;
- Promote high standards of conduct and professional ethics;
- Require appropriate file documentation to support business decisions;
- Assure adequate checks and balances; and
- Ensure public trust.

New Content: Acquisition Management Policy:
Section 4.2.2 : Guiding Principles

The acquisition of real property interests differs from other procurement types in important ways. For example, FAA's need for a specific site, location, or other mission-driven requirement, may limit the alternatives available for consideration in the real property acquisition process. FAA's primary goal is to acquire necessary real property interests to meet mission requirements. FAA is committed to meet applicable sustainability acquisition and management requirements, to the extent practicable. To that end, FAA shall be a good steward of the real property interests/assets acquired for the mission throughout the asset lifecycle, including the acquisition process, in-service management of the asset, and disposal or other final disposition of the asset/interest. The acquisition process requires sound business judgment and a competent and professional staff having the highest integrity, with authority delegated to the lowest responsible level. In addition to the Guiding Principles provided in Acquisition Management System Policy Section 3.1.3, Fundamental Principles, the FAA real property guiding principles will:

- Enable the selection of the lessor with the best value to satisfy FAA's mission;
- Focus on timely, cost efficient, and quality contract performance;
- Promote discretion, sound business judgment, and flexibility at the lowest levels while maintaining fairness and integrity;
- Provide streamlined methods and initiate innovative processes to conduct timely and cost-effective procurements;
- Promote open communication and access to information throughout the procurement process and encourage use of electronic methods for information exchange;
- Encourage competition as the preferred method of contracting;
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- Promote high standards of conduct and professional ethics;
- Require appropriate file documentation to support business decisions;
- Assure adequate checks and balances;
- Ensure public trust; and
- Promote and increase sustainable real property acquisition, management and disposal practices throughout the asset lifecycle, to the extent feasible and practicable within the agency mission and budget constraints.

Red Line Content: Acquisition Management Policy:
Section 4.2.2 : Guiding Principles

The acquisition of real property interests ~~is unique~~*differs* from other *procurement* types ~~of in procurements~~*important ways*. ~~The~~*For example,* FAA's need for a specific site, location, or other ~~special~~*mission-driven requirement,* ~~requirements~~*may limit the* further ~~complicates~~*alternatives available for consideration in* the real property acquisition process. ~~The~~*FAA's primary* goal is

to acquire necessary real property interests to meet ~~FAA~~ mission requirements, ~~while~~ FAA is committed to fulfilling all mandated meet applicable sustainability acquisition and management requirements, to the extent practicable. To that end, FAA shall be a good steward of the real property interests/assets acquired for the mission throughout the asset lifecycle, including the acquisition process, in-service management of the asset, and disposal or other final disposition of the asset/interest. The acquisition process requires sound business judgment, and a competent and professional staff having the highest integrity, with authority delegated to the lowest responsible level. ~~The~~ In addition to the Guiding Principles provided in Acquisition Management System Policy Section 3.1.3, Fundamental Principles, the FAA real property ~~procurement system~~ guiding principles will:

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- Assure adequate checks and balances; ~~and~~
- Ensure public trust; and
- Promote and increase sustainable real property acquisition, management and disposal practices throughout the asset lifecycle, to the extent feasible and practicable within the agency mission and budget constraints.

Section 4.2.3.3 : Requirements

Old Content: Acquisition Management Policy:

Section 4.2.3.3 : Requirements Requirements must be fulfilled by a competitive process whenever practical and in the best interests of FAA. The RECO and the requiring office will meet as early as possible to review, clarify and streamline acquisition requirements and options available to ensure that special requirements and alternative solutions, where appropriate, are considered; to define the appropriate area of geographic consideration, i.e. delineated area, and to ensure that FAA-mandated requirements are met. The RECO may begin the acquisition process with an informal written request from the using service/requiring office. However, the RECO will not issue any formal requests for information or quotes until the requirements are finalized and certified funds are available. **New Content:** Acquisition Management Policy:

Section 4.2.3.3 : Requirements Real property requirements must be fulfilled by a competitive process whenever practicable and in the best interest of the FAA. The RECO and the program office requiring the asset will meet as early as possible to do the following: review, clarify and streamline acquisition requirements and determine the options available to 1) ensure that special requirements and alternative solutions, where appropriate, are considered; 2) define the appropriate area of geographic consideration (i.e., delineated area); and 3) ensure that FAA-mandated requirements are met, including incorporating sustainability/environmental/energy principles in the acquisition process, if practicable. The RECO may begin the initial acquisition process with a Purchase Request for any amount, including zero dollars from the using service/requiring office. However, the RECO must not issue any formal requests for information, quotes or Solicitation for Offers (SFO) until the requirements are finalized, any required business case approvals are received and it has been confirmed that certified funds for the current fiscal year are available for obligation. The RECO may provide preliminary market information for purposes of supporting business cases if requested by the requiring office. **Red Line Content:** Acquisition Management Policy:

Section 4.2.3.3 : Requirements ~~Requirements~~ Real property requirements must be fulfilled by a competitive process whenever ~~practical~~ practicable and in the best ~~interests~~ interest of ~~the~~ FAA. The RECO and the ~~requiring~~ program office ~~requiring the asset~~ will meet as early as possible to do the following: review, clarify and streamline acquisition requirements and determine the options available to 1) ensure that special requirements and alternative solutions, where appropriate, are considered; ~~to~~ 2) define the appropriate area of geographic consideration; (i.e., delineated area); and ~~to~~ 3) ensure that FAA-mandated requirements are met, including incorporating sustainability/environmental/energy principles in the acquisition process, if practicable. The RECO may begin the initial acquisition process with ~~an~~ a Purchase Request for any amount, informal written request including zero dollars from the using service/requiring office. However, the RECO ~~will~~ must not issue any formal requests for information, quotes or ~~quotes~~ Solicitation for Offers (SFO) until the requirements are finalized, any required business case approvals are received and it has been confirmed that certified funds for the current fiscal year are available for obligation. The RECO may provide preliminary market information for purposes of supporting business cases if requested by the requiring office.

Section 4.2.3.3.1 : Succeeding Leases/Renewal Leases

Old Content: Acquisition Management Policy:

Section 4.2.3.3.1 : Succeeding Leases/Renewal Leases

Prior to determining whether to enter into a succeeding lease (the lease expired at the end of the term and no renewal option(s) remain), or renew an existing lease (this is the exercise of an option to stay in the existing location for the amount of time stated in the option(s) to renew), the RECO must consult with the using service/requesting office and obtain an approved business case or a statement of continuing need. Alterations, upgrading, and expansion/reductions of requirements must be considered and included, as appropriate, in the subsequent acquisition and final documentation. When fulfilling the using service/requesting office requirements, the RECO **must** use the standard land lease, space lease, utilities and outgrant templates and associated forms for all new, succeeding and renewal lease acquisitions.

In accordance with the provisions of 49 USC 40110(c)(1), the RECO may enter into a lease with a term of up to 20 years, regardless of whether appropriations sufficient to pay the rent for the lease term have been obligated. Thus, the RECO is authorized to award a lease without having any funds at all on the date the lease is signed.

The RECO must ensure that all clauses incorporated in the succeeding lease agreement are current and applicable. In addition, if the term of a cost lease is **less than** 20 years, including all renewal options, and if the RECO determines that the best method to fulfill a short term continuing need is by extending the current lease, the Supplemental Lease Agreement must contain all current clauses. However, if the lease has been effective for 20 years, the RECO must negotiate a new or succeeding lease.

In addition, all proposed permanent changes to the standard lease clauses **must** be approved by ALO-200 and AGC-500.

Note: Any changes to lease clauses that are to be applied to a single case must be approved by Regional Counsel each time they are proposed.

**New Content: Acquisition Management Policy:
Section 4.2.3.3.1 : Succeeding Leases/Renewal Leases**

Prior to determining whether to enter into a succeeding lease (i.e., the lease expires at the end of the term and no renewal option(s) remain), or to renew an existing lease (i.e., the exercise of an option to stay in the existing location), the RECO must consult with the using service/requesting office and obtain an approved business case or a statement of continuing need. Additionally, in the case of space leases, the facility subject to the expiring lease must be in compliance with current life safety, seismic safety, and high performance sustainable building (HPSB) requirements.

If the agency is considering remaining at the current location, then the current Lessor must be contacted regarding potential upgrades to the real property, to ensure that the space will comply with all requirements contained in the proposed new lease, and that the Lessor is willing to execute the proposed lease. If the Lessor is unable or unwilling to support the necessary improvements, or other changes necessary to meet the FAA's current requirements, then the FAA must either:

1. Relocate to another location, or
2. The Spaceholder's Council may consider mission-related reasons to stay. In this case, the justification to stay must be documented in the project's business case and approved by the appropriate Spaceholder's Council. Alterations, upgrading, and expansion/reduction of requirements must also be considered and included, as appropriate, in the subsequent acquisition and final documentation.

When fulfilling the using service/requesting office requirements, the RECO **must** use the standard land lease, space lease, utilities and outgrant templates and associated forms for all new, succeeding and renewal lease acquisitions.

In accordance with the provisions of 49 USC 40110(c)(1), the RECO may enter into a lease with a term of up to 20 years, regardless of whether appropriations sufficient to pay the rent for the lease term have been obligated. Thus, the RECO is authorized to award a lease without having any funds on the date the lease is signed (i.e., the RECO can sign a lease in the current fiscal year, even though rent commencement does not occur until the next fiscal year).

The RECO must ensure that all clauses incorporated in the succeeding lease agreement are current and applicable. In addition, if the term of a cost lease is less than 20 years, including all renewal options, and if the RECO determines that the best method to fulfill a short term continuing need is by extending the current lease, the Supplemental Lease Agreement must contain all current clauses. However, if the lease has been effective for over 20 years, the RECO must negotiate a new or succeeding lease.

In addition, all proposed permanent changes to the standard lease clauses must be approved by ALO-200 and AGC-500. The RECO must maintain signed approvals in the lease file.

Note: Any changes to lease clauses that are to be applied to a single case must be approved by Regional Counsel each time they are proposed.

**Red Line Content: Acquisition Management Policy:
Section 4.2.3.3.1 : Succeeding Leases/Renewal Leases**

Prior to determining whether to enter into a succeeding lease (*i.e.*, the lease ~~expired~~**expires** at the end of the term and no renewal option(s) remain), or **to** renew an existing lease (~~this is~~*i.e.*, the exercise of an option to stay in the existing location ~~for the amount of time stated in the option(s) to renew~~), the RECO must consult with the using service/requesting office and obtain an approved business case or a statement of continuing need. **Additionally, in the case of space leases, the facility subject to the expiring lease must be in compliance with current life safety, seismic safety, and high performance sustainable building (HPSB) requirements.**

If the agency is considering remaining at the current location, then the current Lessor must be contacted regarding potential upgrades to the real property, to ensure that the space will comply with all requirements contained in the proposed new lease, and that the Lessor is willing to execute the proposed lease. If the Lessor is unable or unwilling to support the necessary improvements, or other changes necessary to meet the FAA's current requirements, then the FAA must either:

- 1. Relocate to another location, or**
- 2. The Spaceholder's Council may consider mission-related reasons to stay. In this case, the justification to stay must be documented in the project's business case and approved by the appropriate Spaceholder's Council.** Alterations, upgrading, and

expansion/~~reductions~~reduction of requirements must also be considered and included, as appropriate, in the subsequent acquisition and final documentation.

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The RECO must ensure that all clauses incorporated in the succeeding lease agreement are current and applicable. In addition, if the term of a cost lease is less than 20 years, including all renewal options, and if the RECO determines that the best method to fulfill a short term continuing need is by extending the current lease, the Supplemental Lease Agreement must contain all current clauses. However, if the lease has been effective for over 20 years, the RECO must negotiate a new or succeeding lease.-

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Note: Any changes to lease clauses that are to be applied to a single case must be approved by Regional Counsel each time they are proposed.—

Section 4.2.3.4 : Procurement Method

Old Content: Acquisition Management Policy:

Section 4.2.3.4 : Procurement Method

The RECO makes the determination of whether the requirement will be satisfied through competition or single source acquisition. A preliminary assessment such as an informal market survey via phone calls of potential available sources within the geographic area of consideration, i.e. delineated area, may be needed to assist in the determination of the procurement method. Competition is the preferred method of procurement and should be used whenever practical and reasonable. Competition is obtained by providing two or more sources an opportunity to express an interest in satisfying the requirements. Competition is appropriate when the requirement is not site or location specific and reasonable possibility exists that there is more than one provider that can meet the FAA's needs. Interest from potential sources may be expressed either orally or in writing.

The single-source method of procurement is appropriate when technical requirements, business practices, or programmatic needs have determined that a specific location, site, or unique need is required to meet the FAA's mission, or when it has been determined that only one source is

reasonably available that can meet the requirement. Advertising is not required if the resultant acquisition is for a site-specific location and deemed single-source procurement.

New Content: Acquisition Management Policy:
Section 4.2.3.4 : Procurement Method

The RECO makes the determination of whether the requirement will be satisfied through competition or single-source acquisition. A preliminary assessment, such as an informal market survey via phone calls of potential available sources within the geographic area of consideration (i.e., delineated area), may be needed to assist in the determination of the procurement method. When developing a lease procurement strategy, the RECO must first consider acquiring buildings that have earned the current year Energy Star label, and buildings conforming to the Guiding Principles (LEED Silver and above certified buildings may be used to identify buildings that potentially conform to the Guiding Principles) as well as buildings that meet appropriate life safety and seismic certification requirements.

Competition is the preferred method of procurement and should be used whenever practicable and reasonable. Competition is obtained by providing two or more sources an opportunity to express an interest in satisfying FAA's requirements. Competition is appropriate when the requirement is not site or location specific and reasonable possibility exists that there is more than one provider that can meet the FAA's needs. Interest from potential sources may be expressed either orally or in writing.

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Section 4.2.3.4 : Procurement Method

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Section 4.2.3.5 : Solicitation for Offers

Old Content: Acquisition Management Policy:

Section 4.2.3.5 : Solicitation for Offers

The RECO works with the program office to determine the delineated area to fulfill the mission of the FAA. The RECO is not required to solicit offers from all sources within the geographic area of consideration. It is only necessary that offers be solicited from a sufficient number of sources (at least two sources are sought, if possible) to promote competition to the extent practicable and reasonable. Data obtained during the market survey, and/or advertisement, and/or appraisal can also be used to determine a range of reasonable rents charged by Lessors within the area of consideration for space or land similar to that being acquired by FAA. (See below for more information.)

For single-source procurements, a market survey/and or appraisal should be conducted to determine or verify the reasonableness of the offer. At least three sources of data should be queried to ensure the validity of the data. If single source procurement is selected, which is often the case for most FAA land acquisitions; the RECO must document the justification/determination of the rational basis for a single source acquisition in the lease file under the negotiator report.

The RECO will send the Solicitation for Offerors (SFO) or proposed lease contract to those offerors who meet the requirements of the FAA

New Content: Acquisition Management Policy:

Section 4.2.3.5 : Solicitation for Offers

The RECO works with the program office to determine and define the delineated area required to acquire space that will fulfill the mission of the FAA and will consider buildings which meet Guiding Principles and EISA requirements when establishing the delineated area. For space leases, the delineated area must be of sufficient size to ensure competition between buildings that meet HPSB Guiding Principles and EISA requirements for Energy Star buildings, unless it has been demonstrated in the market survey, that there is no space available that meets the above criteria and that leased construction is not economically feasible. The SFO has been revised to include appropriate provisions ensuring compliance with sustainability requirements. Refer to the Solicitation for Offerors (SFO) template for further information.

The RECO is not required to solicit offers from all sources within the geographic area of consideration. It is only necessary that offers be solicited from a sufficient number of sources (at least two sources are sought, if possible) to promote competition to the extent practicable and reasonable.

Data obtained during the market survey, advertisement, and/or appraisal can also be used to determine a range of reasonable rents charged by Lessors within the area of consideration for space or land similar to that being acquired by FAA. (See below for more information.)

For single-source procurements, a market survey and/or appraisal should be conducted to determine or verify the reasonableness of the offer. At least three sources of data should be queried to ensure the validity of the data. If single-source procurement is selected, which is often the case for most FAA land acquisitions, the RECO must document the justification/determination for a single-source acquisition, and shall maintain the documentation in the lease file, under the Negotiator Report.

The RECO will send the Solicitation for Offerors (SFO) or proposed lease contract to those offerors who meet the requirements of the FAA, as described above.

**Red Line Content: Acquisition Management Policy:
Section 4.2.3.5 : Solicitation for Offers**

The RECO works with the program office to determine and define the delineated area required to acquire space that will fulfill the mission of the FAA and will consider buildings which meet Guiding Principles and EISA requirements when establishing the delineated area. For space leases, the delineated area must be of sufficient size to ensure competition between buildings that meet HPSB Guiding Principles and EISA requirements for Energy Star buildings, unless it has been demonstrated in the market survey, that there is no space available that meets the above criteria and that leased construction is not economically feasible. The SFO has been revised to include appropriate provisions ensuring compliance with sustainability requirements. Refer to the Solicitation for Offerors (SFO) template for further information.

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The RECO will send the Solicitation for Offerors (SFO) or proposed lease contract to those offerors who meet the requirements of the FAA, ***as described above***.
