

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 18-51

Date Received: 8/16/18

Title: Toolbox Reference Deletion - Policy

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Policy and Guidance: (check all that apply)

- Policy
- Procurement Guidance
- Real Estate Guidance
- Other Guidance
- Non-AMS Changes

Summary of Change:

Deletion of references to AMS Procurement Toolbox.

Reason for Change:

This term is no longer used in the AMS FAST - references should be to AMS Policy.

Development, Review, and Concurrence: Acquisition Policy Division

Target Audience: AMS users

Briefing Planned: No.

ASAG Responsibilities: None.

Section / Text Location: 3.1.8, 3.2.4.3, 3.13.2.1, and 4.2.3.14.2

The redline version must be a comparison with the current published FAST version.

I confirm I used the latest published version to create this change / redline

or

This is new content

Links:

https://fast.faa.gov/docs/acquisitionManagementPolicy/acquisitionManagementPolicy_3.pdf

https://fast.faa.gov/RPF_Real_Property.cfm

Attachments: Redline and final documents.

Other Files: N/A

Redline(s):

Section Revised:

3.13.2.1 AMS Contract Clauses and Provisions

Acquisition Management Policy - (~~7/2018~~ 10/2018)

3.13 Other Administrative Matters

3.13.1 Applicability

3.13.1.1 Plain Language Added 7/2006

3.13.2 Policy

3.13.2.1 AMS Contract Clauses and Provisions Revised ~~4/2011~~ 10/2018

3.13.2.2 Reserved

3.13.2.2.1 Reserved

3.13.2.2.2 Reserved

3.13.3 Reserved Revised 7/2013

3.13.4 Contract Data Reporting

3.13.5 Congressional Notification of Contract Awards

3.13.6 Seat Belt Use by Contractor Employees

3.13 Other Administrative Matters

3.13.1 Applicability

This section is applicable to all screening information requests and contracts.

3.13.1.1 Plain Language Added 7/2006

When the statement of work for a contract requires the contractor to deliver any document that will be published, either electronically or in hard copy, for dissemination outside the FAA, or for broad dissemination within the FAA, the document must comply with FAA Order 1000.36, "FAA Writing Standards."

3.13.2 Policy

3.13.2.1 AMS Contract Clauses and Provisions Revised 4/2011 10/2018

AMS clauses and provisions used in screening information requests and contracts must be consistent with the procurement guidance and ~~clause prescriptions~~ prescriptions in the FAST Procurement Toolbox, unless there is an approved rational basis for adopting a different approach. The Chief Counsel's office and Chief of the Contracting Office must approve in advance each such rational basis determination regarding the use or tailoring of a mandatory clause or provision.

3.13.2.2 Reserved

3.13.2.2.1 Reserved

3.13.2.2.2 Reserved

3.13.3 Reserved Revised 7/2013

3.13.4 Contract Data Reporting

The FAA will comply with the uniform reporting requirements of the Federal Procurement Data System.

3.13.5 Congressional Notification of Contract Awards

Through the Department of Transportation's Assistant Secretary for Governmental Affairs, the FAA will notify Congress of contract awards and contract modifications.

3.13.6 Seat Belt Use by Contractor Employees

The FAA will comply with the requirements of Executive Order 13043 entitled "Increasing Seat Belt Use in the U.S.".

Section Revised:

3.1.8 Procurement Integrity Act

Acquisition Management Policy - (~~7/2018~~ 10/2018)

3.1 Overview

3.1.1 Introduction Revised 7/2007

3.1.2 Applicability

3.1.3 Fundamental Principles Revised 7/2013

3.1.4 Contracting Authority Revised 10/2014

3.1.5 Conflict of Interest Revised 10/2008

3.1.6 Disclosure of Information Revised 10/2008

3.1.7 Organizational Conflicts of Interest

3.1.8 Procurement Integrity Act Revised ~~10/2014~~ 10/2018

3.1.9 Electronic Commerce in Contracting Revised 7/2018

3.1 Overview

3.1.1 Introduction Revised 7/2007

The goal of the Federal Aviation Administration procurement system is to obtain high quality products, services, and real property in a timely, cost-effective manner, at prices that are fair and reasonable. The procurement system enables the FAA to be innovative and creative so that the right vendor is selected to implement a solution. The FAA procurement system is an integrated part of the lifecycle management process. The FAA procurement system focuses primarily on identifying sources, awarding, and administering contracts.

The FAA procurement system emphasizes competition, selects the vendor with the best value and provides a protest forum through the FAA's Dispute Resolution system. Open communications with industry from initial planning to contract award are the cornerstones of the process. Procurement documents are tailored to individual requirements and screening improves source selection by focusing efforts on those offerors most likely to receive an award. The procurement system emphasizes "common sense" decision-making, flexibility, business judgment, and a team concept for managing procurements. Service organizations have the proper level of authority to make decisions and are responsible and accountable for their actions.

The FAA's procurement system provides policy and guidance for executing contracts and agreements to acquire products, services, and real property. In support of the FAA's mission, the Administrator, or designee, has broad discretion to select contractors who provide products, services, and real property. Procurement officials should follow the policy and guidance contained herein but, based on prudent discretion and sound judgment, may employ any procedures that do not violate applicable statutes or regulations. The National Acquisition Evaluation Program strategically monitors the implementation of procurement requirements by periodically evaluating acquisition processes in support of FAA efforts to improve the quality of procurement practices.

3.1.2 Applicability

The FAA procurement system applies to all procurements conducted by the FAA, as set forth herein with the exception of assistance relationships, such as grants and cooperative agreements.

3.1.3 Fundamental Principles Revised 7/2013

The FAA procurement system will:

- Enable the selection of the contractor with the best value to satisfy the FAA's mission;
- Focus on key discriminators between vendors and their products or services to ensure timely, cost efficient, and quality contract performance;
- Promote discretion, sound business judgment, and flexibility at the lowest levels while maintaining fairness and integrity;
- Encourage the procurement of commercial and non-developmental items;

- 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 contract types and transactions best suited to a particular procurement;
- Authorize the use of purchase cards consistent with prudent business practice;
- Provide attainable and reasonable opportunities for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals in consultation with the Department of Justice to ensure compliance with the constitutional standards established by the Supreme Court in *Adarand Constructors v. Peña*, as well as the President's July 19, 1995, directive to the heads of executive departments and agencies on the "Evaluation of Affirmative Action Programs;"
- 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.

3.1.4 Contracting Authority Revised 10/2014

Pursuant to the Federal Aviation Administration Reauthorization Act of 1996, Public Law 104-264, the Administrator is the final authority for carrying out all functions, powers, and duties of the Administration relating to the acquisition and maintenance of property and equipment of the Administration. The Administrator has broad authority "to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration . . .with any Federal agency, or any instrumentality of the United States, any territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate."

The FAA Administrator may establish contracting activities and delegate to the Acquisition Executive broad authority to manage FAA's contracting functions. The Acquisition Executive is authorized to appoint Chief(s) of the Contracting Office (COCO) and redelegate the contracting authority to the COCO. The COCO may request that the Acquisition Executive further redelegate contracting authority to individuals within the COCO's management or service area such as procurement and real property contracting officers, logistics management specialists, and managers of the purchase card program.

All individuals who are delegated contracting authority must have met the training requirements of the AMS and have demonstrated the appropriate knowledge and experience needed to execute this authority on behalf of the Government. Except for the purchase card program manager, these

individuals may not redelegate their contracting authority. Contracting authority must be delegated to Contracting Officers or other qualified persons with a written warrant or other certificate of appointment. Contracts, agreements, grants and other transactions may be entered into and signed on behalf of the FAA by Contracting Officers only, or other qualified persons with a written certificate of appointment. The certificate of appointment must expressly state the types of transactions and limitations authorized by the delegation. Absent specific authority in the delegation, that authority does not exist. Information on the limits of the contracting officer's authority must be readily available to the public and FAA personnel.

The Contracting Officer must have warrant authority commensurate with the total estimated potential value (see Appendix C) of a transaction. Modifications after the original award are considered standalone actions when calculating the total estimated potential value; a Contracting Officer's warrant must have a dollar limitation sufficient to award the total value of a modification, but not the entire value of the contract, order, lease, or agreement.

Key contracting duties and responsibilities are to be separated among individual people. For a particular requirement, the same person must not requisition, certify funds availability, approve, and obligate funds.

3.1.5 Conflict of Interest Revised 10/2008

Any member of a service organization or Office of Dispute Resolution for Acquisition (ODRA) who is a Federal employee that has a real or apparent conflict of interest must withdraw from participation in the procurement process when required by law (18 U.S.C. 208) or regulation (5 CFR Part 2635). To sustain the integrity of the procurement process, non-Federal members of a service organization or ODRA are held to the same standards.

3.1.6 Disclosure of Information Revised 10/2008

Source selection information and proceedings must not be discussed outside the service organization. The Source Selection Official (SSO) must determine the extent to which source selection information is disclosed and must execute a certificate of nondisclosure as appropriate.

3.1.7 Organizational Conflicts of Interest

The policy of the FAA is to avoid awarding contracts to contractors who have unacceptable organizational conflicts of interest. The FAA will resolve organizational conflict of interest issues on a case-by-case basis; and when necessary to further the interests of the agency, will waive or mitigate the conflict at its discretion.

3.1.8 Procurement Integrity Act Revised 10/2014 10/2018

FAA is subject, with modifications as described in ~~the Procurement Toolbox~~ AMS Guidance with FAA-specific language, to the Procurement Integrity Act (41U.S.C. §§ 2101-2107).

3.1.9 Electronic Commerce in Contracting Revised 7/2018

The FAA may use electronic commerce, including electronic signatures, to conduct and administer procurement actions. The Electronic Signatures in Global and National Commerce Act (E-SIGN) provides equivalency between legally-required written records and the same information in electronic form.

Unless waived by the Chief of the Contracting Office, the FAA's official contract file for contract actions on or after October 1, 2013 must be created in electronic format, and stored and maintained in the "Electronic Document Storage (eDocS) system," the single repository for paperless contract files. Purchase card transactions, awards made by Real Estate Contracting Officers, awards made by personnel with Delegations of Procurement Authority and files that are required to be created or maintained in paper format such as documents associated with certain real estate transactions and documents requiring a raised seal signifying authenticity are excluded from this requirement.

Based on the National Institute of Standards and Technology (NIST) Policy Statement on Hash Functions dated August 5, 2015, the FAA must stop using Secure Hash Algorithm 1 (SHA-1) for generating digital signatures, generating time stamps and for other applications that require collision resistance. Further guidance on the use of SHA-1 is in NIST Special Publication (SP) 800-131A, Revision 1, dated November 6, 2015.

FAA must use SHA-256 or higher for the generation of digital signatures, generating time stamps, and other applications that require collision resistance. NIST provides further guidance on the use of SHA-256 in NIST SP 800-57 Part 1, section 5.6.2 as amended and SP 800-131A, Revision 1. Additional guidance on the use of SHA-3 is in NIST SP 800-185 as amended.

FAA may still use SHA-1 for the following applications: Verifying old digital signatures and time stamps, generating and verifying hash-based message authentication codes (HMACs), key derivation functions (KDFs), and random bit/number generation.

Section Revised:

3.2.4.3 Guidance and Principles

3.2.3.5 Cost Accounting Standards

Acquisition Management Policy - (~~7/2018~~ 10/2018)

3.2 Contracting

3.2.1 Procurement Planning

3.2.1.1 Applicability Revised 4/2013

3.2.1.2 Policy Revised 11/2009

3.2.1.2.1 Market Analysis Revised 4/2013

3.2.1.2.2 Procurement Plan Revised 4/2013

3.2.1.2.3 Consideration of Agency Wide Contracts Revised 1/2014

3.2.1.2.4 Independent Government Cost Estimate Revised 1/2017

3.2.1.3 Guidance and Principles Revised 11/2009

3.2.1.3.1 Development

3.2.1.3.2 Scope of Procurement

3.2.1.3.3 Budget Allocation Release

3.2.1.3.4 Quality Assurance

3.2.1.3.5 Labor Relations

3.2.1.3.6 Maintaining Competition

3.2.1.3.7 Single-Source Approval Revised 11/2009

3.2.1.3.8 Pre-Release of Documents

3.2.1.3.9 Reserved

3.2.1.3.10 Reserved

3.2.1.3.11 Public Announcements Revised 6/2006

3.2.1.3.11.1 General Revised 1/2017

3.2.1.3.11.2 Procurements Involving Products from Federal
Prison Industries Revised 7/2008

3.2.1.3.12 OMB Circular A-76, Performance of
Commercial Activities

3.2.1.4 Chief Financial Officer Requirements Revised 1/2011

3.2.1.4.1 Contract Line Item Structure Added 1/2011

3.2.1.4.2 Chief Financial Officer Approval Added 1/2011

3.2.1.5 Disaster or Emergency Preparedness and Response Revised 7/2007

3.2.1.5.1 Local Area Set-Asides for Disaster or Emergency Added 7/2007

3.2.1.5.2 Continuity of Services-Mission Critical Contracts Added 7/2007

3.2.2 Source Selection

3.2.2.1 Applicability

3.2.2.2 Policy Revised 1/2018

3.2.2.3 Complex and Noncommercial Source Selection

3.2.2.3.1 Selection Phases

3.2.2.3.1.1 Planning

3.2.2.3.1.2 Screening

3.2.2.3.1.2.1 Screening Information Request Revised

7/2007

- 3.2.2.3.1.2.2 Communications with Offerors
- 3.2.2.3.1.2.3 Receipt/Evaluation of Submittals
- 3.2.2.3.1.2.4 Changes in Requirements
- 3.2.2.3.1.2.5 SSO Decision
- 3.2.2.3.1.3 Selection Revised 10/2012
- 3.2.2.3.1.4 Debriefing
- 3.2.2.3.1.5 Lessons Learned
- 3.2.2.3.2 Reserved
 - 3.2.2.3.2.1 Reserved
 - 3.2.2.3.2.2 Reserved
 - 3.2.2.3.2.3 Reserved
 - 3.2.2.3.2.4 Reserved
 - 3.2.2.3.2.5 Reserved
 - 3.2.2.3.2.6 Reserved
- 3.2.2.4 Single-Source Selection Revised 1/2017
 - 3.2.2.4.1 Single-Source Procurement Process
 - 3.2.2.4.1.1 Emergencies
 - 3.2.2.4.1.2 Non-emergencies Revised 1/2017
 - 3.2.2.4.1.3 Lessons Learned
- 3.2.2.5 Commercial and Simplified Purchase Method Revised 6/2006
 - 3.2.2.5.1 Planning Revised 1/2017
 - 3.2.2.5.2 Sourcing Determination
 - 3.2.2.5.3 Screening
 - 3.2.2.5.4 Selection Decision and Award
 - 3.2.2.5.4.1 Documentation
 - 3.2.2.5.5 Micro-Purchase Threshold Revised 4/2017
- 3.2.2.6 Unsolicited Proposals
 - 3.2.2.6.1 Policy Added 10/2008
 - 3.2.2.6.2 Receipt and Initial Review Revised 10/2008
 - 3.2.2.6.3 Prohibitions Added 10/2008
- 3.2.2.7 Contractor Qualifications
 - 3.2.2.7.1 Applicability
 - 3.2.2.7.2 Contractor Responsibility
 - 3.2.2.7.3 Contractor Team Arrangements
 - 3.2.2.7.4 Suspension and Debarment
- 3.2.2.8 Describing FAA Needs
 - 3.2.2.8.1 Applicability
 - 3.2.2.8.2 Policy
- 3.2.2.9 Rehabilitation Act
- 3.2.3 Pricing Methodology, Principles and Standards Revised 10/2011
 - 3.2.3.1 Applicability Revised 10/2011
 - 3.2.3.2 Cost and Price Analysis Revised 1/2016
 - 3.2.3.3 Pre- and Post-Award Audits Revised 1/2012
 - 3.2.3.4 FAA Cost Principles Added 10/2011
 - 3.2.3.5 Cost Accounting Standards ~~Added 10/2011~~ Revised 10/2018
- 3.2.4 Types of Contracts
 - 3.2.4.1 Applicability

- [3.2.4.2 Policy](#)
 - [3.2.4.3 Guidance and Principles](#) Revised 10/2018
 - [3.2.5 Contractor Ethical Guidelines](#)
 - [3.2.5.1 Applicability](#)
 - [3.2.5.2 Policy](#)
 - [3.2.6 Purchase Card Program](#) Added 1/2009
 - [3.2.6.1 Applicability](#) Added 1/2009
 - [3.2.6.2 Policy](#) Added 1/2009
 - [3.2.7 Anti-Counterfeit Management](#) Added 4/2014
 - [3.2.7.1 Applicability](#) Added 4/2014
 - [3.2.7.2 Suspected Counterfeit and Non-Conforming Parts](#) Added 4/2014
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3.2 Contracting

3.2.1 Procurement Planning

3.2.1.1 Applicability Revised 4/2013

Written procurement plans are required for all FAA procurements except: real property, utilities, purchase card transactions and transactions less than \$25,000. The specific content of a procurement plan may vary depending on the complexity of the procurement. The procurement planning templates in AMS must be used. Template A must be used for all simplified and commercial procurements and Template B must be used for all complex and non-commercial procurements.

3.2.1.2 Policy Revised 11/2009

Procurement planning is an indispensable component of the total acquisition process. Service organizations are expected to use procurement planning as an opportunity to evaluate/review the entire procurement process, so that sound judgments and decision-making will facilitate the success of the overall program. For procurements not covered by an implementation strategy and planning document, procurement planning should be appropriate and proportionate to the complexity and dollar value of the requirement.

3.2.1.2.1 Market Analysis Revised 4/2013

The purpose of market analysis is to initiate industry involvement, develop and refine the procurement strategy, obtain price information, determine whether commercial items exist, determine the level of competition, identify market practices, or obtain comments on requirements. The magnitude and degree of formality of the market analysis should be proportionate to the contemplated procurement. The market analysis may be as simple as a telephone call or as formal as a market survey advertisement to learn of industry capabilities. All market analyses, formal or informal, should be appropriately documented.

3.2.1.2.2 Procurement Plan Revised 4/2013

A plan for each contemplated procurement or class of procurements should address the significant considerations of the procurement action. A procurement plan may cover more than one contract. The procurement plan represents the service organization agreement for conducting the procurement. See paragraph 3.2.1.1 for documentation requirements.

3.2.1.2.3 Consideration of Agency Wide Contracts Revised 1/2014

Agency Wide Contracts must be used to the maximum extent possible. The procurement plan must document which agency wide contracts were considered. If an applicable agency wide contract is

available for utilization and is not utilized; the procurement plan must include the rationale for not utilizing the existing agency wide contract.

3.2.1.2.4 Independent Government Cost Estimate Revised 1/2017

An independent Government cost estimate (IGCE) is required for any anticipated procurement action (to include modifications) whose total estimated value is \$150,000 or more, except for:

- Modifications exercising priced options or providing incremental funding;
- Delivery orders for priced services or supplies under an indefinite-delivery contract;
- Acquisition of real property (i.e., land or space); or
- Supplies or services with prices set by law or regulation.

The Contracting Officer (CO) may require an IGCE for procurement actions (to include modifications) anticipated to be less than \$150,000.

3.2.1.3 Guidance and Principles Revised 11/2009

For procurements not covered in a program with an implementation strategy and planning document, the following elements should be considered in planning for procurements.

3.2.1.3.1 Development

Preference should be given to using commercial and previously developed items whenever possible. Development of a product, and its associated costs and risks, should be avoided unless necessary to meet FAA needs. If developmental items are required, the need should be documented in the procurement plan.

3.2.1.3.2 Scope of Procurement

The scope of a procurement in terms of complexity, period of performance, dollar value, risk, and other factors should be considered in planning a procurement. As the scope of a procurement increases, the risk of unsuccessful management of the procurement also increases. Appropriate trade-offs should consider elements such as: managing a large complex procurement versus several smaller phased procurements; the systems integration role; total systems responsibility; timing of benefits; technological obsolescence; and other factors.

3.2.1.3.3 Budget Allocation Release

Consideration should be given to releasing contract-related budget information to industry in situations where the procurement involves development or multiple-year funding and is likely to be

conducted competitively. If the service organization decides to release the information, the decision should be identified in the procurement plan.

3.2.1.3.4 Quality Assurance

For complex systems or hardware acquisition, the service organization should coordinate with representatives of the Quality Assurance office as soon as procurement requirements are defined, to establish quality assurance requirements for the proposed procurement.

3.2.1.3.5 Labor Relations

When planning procurements, the service organization should comply with applicable FAA labor relations directives.

3.2.1.3.6 Maintaining Competition

Consideration should be given to methods of maintaining competition throughout the lifecycle of any product or service. Methods to be considered may include dual sourcing, obtaining reprocurement data and data rights, open system designs, and any other appropriate methods.

3.2.1.3.7 Single-Source Approval Revised 11/2009

The service organization determines whether the procurement should be conducted on a competitive or single source basis. The rationale for the single source procurement should be included in the implementation strategy and planning document or the procurement plan. If an implementation strategy and planning document is not required and the service organization determines that based on the complexity of the procurement a procurement plan will be established, the procurement plan should include the justification for the single-source decision. Approval of the implementation strategy and planning document or the procurement plan constitutes approval of a single-source procurement; no further approval or documentation is necessary.

3.2.1.3.8 Pre-Release of Documents

Early release of program documents can be an important part of communication with industry. Releasing draft functional requirements, draft specifications, or a draft screening information request (SIR) can be beneficial to industry, as well as the FAA. Early and more complete releases of the SIR and feedback from industry should be part of the market analysis strategy.

3.2.1.3.9 Reserved

3.2.1.3.10 Reserved

3.2.1.3.11 Public Announcements Revised 6/2006

3.2.1.3.11.1 General Revised 1/2017

All procurements anticipated to exceed \$150,000 must be publicly announced on the Internet or through other means. This requirement does not apply to noncompetitive awards to Socially and Economically Disadvantaged Business (SEDB) (8(a)) firms and Service-Disabled Veteran Owned Small Business (SDVOSB) firms, emergency single source actions, purchases from an established qualified vendor list (QVL) or FSS, exercise of options, or changes. For actions not anticipated to exceed \$150,000, a public announcement is optional if it is not required by 3.2.1.3.11.2.

3.2.1.3.11.2 Procurements Involving Products from Federal Prison Industries Revised 7/2008

All procurements of products available from Federal Prison Industries (FPI) anticipated to exceed \$10,000 must be publicly announced on the Internet or through other means, including procurements where FPI products are determined not to be the best value to FAA at the market survey stage. This requirement does not apply to a procurement that satisfies an exception in AMS Policy 3.8.4.2 (concerning procurement of FPI products).

3.2.1.3.12 OMB Circular A-76, Performance of Commercial Activities.

OMB Circular A-76 (Revised), "Performance of Commercial Activities," establishes Federal policy for the competition of commercial activities. Inherently governmental activities are to be performed with Government personnel, but activities identified as not inherently governmental in nature are to be subjected to competition to determine if such activities should continue to be performed by Government personnel. The FAA will follow the policies of the Circular to the extent that such policies are consistent with FAA's statutory authority.

3.2.1.4 Chief Financial Officer Requirements Revised 1/2011

3.2.1.4.1 Contract Line Item Structure Added 1/2011

The Chief Financial Officer Act of 1990 requires FAA to furnish annual financial statements reflecting the assets of the agency to the Office of Management and Budget. To generate information needed for accurate financial statements, service organizations must establish appropriate contract line item structure and billing mechanisms for contracts so the agency can accurately state the value of its assets, and assure related accounting classifications are included on financial documents.

3.2.1.4.2 Chief Financial Officer Approval Added 1/2011

The Chief Financial Officer has approval authority over all proposed procurement actions of \$10 million or more.

3.2.1.5 Disaster or Emergency Preparedness and Response Revised 7/2007

3.2.1.5.1 Local Area Set-Asides for Disaster or Emergency Added 7/2007

The Contracting Officer may set-aside procurements for competition among only offerors residing or doing business primarily in a geographic area where the President has declared a major disaster or emergency.

3.2.1.5.2 Continuity of Services-Mission Critical Contracts Added 7/2007

FAA may designate mission critical contracts that require continued contractor performance during times of National Emergency or Incidents of National Significance, such as pandemic influenza. These contracts must include provisions and contractor plans detailing how essential services or supplies will still be adequately delivered.

3.2.2 Source Selection

3.2.2.1 Applicability

Source selection policy and guidance apply to acquisitions for products and services except for real property, utilities, and agreements. There are two competitive procurement methods available for obtaining products and services through the FAA contracting process.

The first method is described under Complex and Noncommercial Source Selection and is used for complex, large dollar, developmental, noncommercial items and services. This is the method that typically would be used for investments approved by the Joint Resources Council.

The second method is described under Commercial and Simplified Purchase Method and, is typically used for commercial items that are less complex, smaller in dollar value, and shorter term. Such products or services may be routine in nature and are generally purchased on a fixed price basis.

3.2.2.2 Policy Revised 1/2018

The FAA procures products and services from sources offering the best value to satisfy FAA's mission needs. Considering complexity, dollar value, and availability of products and services in the marketplace, FAA has flexibility to use any method of procurement deemed appropriate to satisfy FAA's mission.

The FAA provides reasonable access to competition for vendors interested in doing business with FAA. Competition among two or more sources is the preferred method of procurement. When competition is not feasible, procurements may be on a single source basis if there is a documented rationale for the decision; documentation for this decision is not required for procurements with a total estimated value of less than \$10,000.

Except for those acquisitions where the agency purchase card is being used as the procurement vehicle, or those acquisitions subject to AMS 3.8.4.2, acquisitions with a total estimated value exceeding \$10,000 but not over \$150,000 are reserved exclusively for competition among socially and economically disadvantaged business [SEDB/(8(a))] vendors, pursuant to AMS policy 3.6.1.3.4. If the CO, with review by the cognizant small and disadvantaged business utilization specialist, determines that an SEDB/(8(a)) set-aside is not in FAA's best interest due to quality, price, or delivery, then the decision must be documented.

The CO must issue a public announcement informing industry of FAA's procurement strategy before, or concurrent with, releasing an initial SIR. Each SIR must contain specific evaluation criteria that FAA will use to evaluate offeror's submittals. When using complex and noncommercial source selection methods, FAA must include past performance as an evaluation factor. If appropriate, FAA may use process capability of suppliers as an evaluation factor according to established criteria. Cost or price considerations must be an evaluation factor in all final selection decisions. Any request for offer (RFO) must include a requirement for a formal cost or price proposal. The source evaluation team must document the findings of the evaluation. The source selection official (SSO) must base all selection or screening decisions on evaluation criteria established in each SIR. The CO must conduct debriefings with all offerors that request them.

Responsible contractors only may receive awards. To be determined responsible, a prospective contractor:

- Has or can obtain adequate financial resources to perform a contract;
- Has the ability to meet any required or proposed delivery schedules;
- Has a satisfactory performance history;
- Has a satisfactory record of integrity and proper business ethics;
- Has appropriate accounting and operational controls that may include, but are not limited to: production control, property control systems, quality assurance programs, and appropriate safety programs; and
- Is qualified and eligible to receive an award under applicable laws or regulations.

The CO's signing of the contract constitutes a determination that the prospective contractor is responsible with respect to that contract. When an offer is rejected because the prospective contractor is non-responsible, the CO must make a determination of non-responsibility. The CO has broad discretion in making this determination.

3.2.2.3 Complex and Noncommercial Source Selection

This section establishes the FAA's policy for evaluating and selecting sources for the award of complex, noncommercial competitive contracts. This process consists of up to five distinct phases, with the screening phase being the cornerstone. The five phases are:

- Planning;
- Screening;
- Selection;
- Debriefing (as requested); and
- Lessons learned.

3.2.2.3.1 Selection Phases

3.2.2.3.1.1 Planning

Refer to the procurement planning section for further guidance.

3.2.2.3.1.2 Screening

Screening is the process by which the FAA will determine which offeror provides the best value to the FAA. The process is flexible and allows selection and award after one screening request. This process allows the FAA to make an award considering only price and the price-related factors included in the SIR. The number of distinct screening steps for a particular procurement will vary, based on the complexity of the procurement. Provided below is guidance associated with the screening phase.

3.2.2.3.1.2.1 Screening Information Request Revised 7/2007

The purpose of the SIR is to obtain information, which will ultimately allow the FAA to identify the offeror that provides the best value, make a selection decision, and award the contract to conclude the competitive process. A SIR is a request by the FAA for documentation, information, presentations, proposals, or binding offers. Three categories of SIRs (see below) may be used according to the procurement strategy adopted by the service organization. Once the public announcement has been released, the SIR may be released to start the competitive process. The service organization will determine the type(s) of SIR(s) that are appropriate for each procurement.

For a given procurement, the FAA may make a selection decision after one SIR, or the FAA may have a series of SIRs (with a screening decision after each one) to arrive at the selection decision. This will depend on the types of products and services to be acquired and the specific source selection approach chosen by the service organization. When it is desired to make a selection decision after one SIR, that SIR should be a request for offer (see below). In general when multiple SIRs are contemplated, the initial SIR should request general information, and future SIRs should request successively more specific information.

Initial SIRs need not state firm requirements, thus allowing the FAA to convey its needs to offerors in the form of desired features, or other appropriate means. However, firm requirements ultimately will be established in all contracts.

Each SIR should contain the following information:

- Paper Reduction Act number OMB No. 2120-0595 on the cover page.
- A statement identifying the purpose of the SIR (request for information, request for offer, establishment of a QVL and screening).
- A definition of need,
- A request for specific information (with specific page and time limitations, if applicable),
- A closing date stating when submittals must be received in order to be considered or evaluated,
- Evaluation criteria (and relative importance, if applicable),
- A statement informing offerors how communications with them will be conducted during the screening, and
- An evaluation/procurement schedule (including revisions, as required).

The evaluation/procurement schedule should be realistic and should alert the offerors to the fact that the FAA plans to adhere to its schedule and that offerors interested in award will be expected to adhere to this schedule.

There are three categories of SIRs: qualification information, screening information, and request for offers. Each category of SIR is discussed in detail below.

Qualification Information

Qualification information, used to qualify vendors and establish qualified vendor lists (QVLs), should be requested only if it is intended that the resultant QVL will be used for multiple FAA procurements.

Qualification information screens for those vendors that meet the FAA's stated minimum capabilities/requirements to be qualified to provide a given product or service. All vendors that meet the FAA's qualification requirements will be listed on the appropriate QVL for the stated products or services.

Requested qualification information (including equipment/products) should be tailored to solicit the information that will allow the FAA to determine which of the vendors meet the FAA's minimum qualification requirements for the required products or services. For products, the information required to make such a determination might be equipment/products for FAA testing, vendor testing, testing data, product documentation, and production capability. For services, the information required to make such a determination might be a capabilities statement and performance experience. For software-intensive products or services, the information required to make such a determination might include descriptions about the offeror's software development and maintenance processes, in addition to other general information suggested above for products or services.

Once qualification information is requested, received, and evaluated in accordance with the evaluation plan, a QVL will be established for the given product/service. Once such a list is established, only qualified vendors may compete for the products or services. Where a product available from Federal Prison Industries (FPI) is to be acquired via a QVL, any such acquisition must include FPI and follow the procedures set forth at T 3.8.4.A.4 unless the acquisition satisfies an exception in AMS 3.8.4.2. Public announcement is not required once the QVL is established. This list can be updated at the FAA's discretion. Each list should be reviewed regularly to determine whether it should be updated.

Screening Information

Screening information allows the FAA to determine which offeror(s) are most likely to receive the award, and ultimately which offeror(s) will provide the FAA with the best value. The screening information requested in the SIR should focus on information that directly relates to the key discriminators for the procurement.

The following are examples of the types of information that may form the basis of a screening request:

- Equipment/products for FAA testing,
- Vendor testing,
- Testing data,
- Technical documentation (commercial, if available/practicable),
- Capability statements,
- Quality assurance information,
- Performance experience,
- Sample problems,
- Draft/model contracts,
- Technical proposals (including oral presentations, if appropriate/practicable),
- Commercial pricing information,
- Financial condition information,
- Cost or price information, and
- Cost or price proposals.

Request for Offer

A request for offer is a request for an offeror to formally commit to provide the products or services required by the acquisition under stated terms and conditions. The response to the request for offer is a *binding offer*, which is intended to become a binding contract if/when it is signed by the CO. The request for offer may take the form of a SIR, a proposed contract, or a purchase order.

3.2.2.3.1.2.2 Communications with Offerors

Communications with all potential offerors should take place throughout the source selection process. During the screening, selection, and debriefing phases of source selection, communications are coordinated with the CO. Communications may start in the planning phase and continue through contract award. All SIRs should clearly inform offerors how communications will be handled during the initial screening phase.

The purpose of communications is to ensure there are mutual understandings between the FAA and the offerors about all aspects of the procurement, including the offerors' submittals/ proposals. Information disclosed as a result of oral or written communication with an offeror may be considered in the evaluation of an offeror's submittal(s).

To ensure that offerors fully understand the intent of the SIR (and the FAA's needs stated therein), the FAA may hold a pre-submittal conference and/or one-on-one meetings with individual offerors. One-on-one communications may continue throughout the process, as required, at the discretion of the service organization. Communications with one offeror do not necessitate communications with other offerors, since communications will be offeror-specific. Regardless of the varying level of communications with individual offerors, the CO should ensure that such communications do not afford any offeror an unfair competitive advantage. During these and future communications, as applicable, the FAA should encourage offerors to provide suggestions about all aspects of the procurement.

Communications may necessitate changes in the FAA's requirements or screening information request and such changes should be processed consistent with Section 3.2.2.3.1.2.4. Where communications do not result in any changes in the FAA's requirements, the FAA is not required to request or accept offeror revisions. The use of technical transfusion is always prohibited. Technical leveling,leveling and auctioning techniques are prohibited, except in the use of commercial competition techniques as described in Section 3.2.2.5.3.

3.2.2.3.1.2.3 Receipt/Evaluation of Submittals

Once offerors have submitted responses to a SIR, the service organization will evaluate the submittals in accordance with the evaluation criteria stated therein and the evaluation plan. To be considered for an award, an offeror must submit a response to the initial SIR, within the time specified in the SIR.

Evaluation Criteria

The evaluation criteria form the basis on which each offeror's submissions are to be evaluated. Once the criteria have been established and disclosed to offerors, criteria should not be modified without first notifying offerors competing at that stage of the process and allowing such offerors to revise their submissions accordingly. Each SIR must contain the specific evaluation criteria to be used to evaluate offeror submittals for that specific SIR. Evaluation criteria should be tailored to the characteristics of a particular requirement and should be limited to only the key discriminators in the ultimate selection decision. The criteria should avoid, whenever possible, the inclusion of detailed sub-criteria (or sub-criteria in general). Further, efforts should be made to ensure that there are no overlapping criteria. Initial SIRs do not require cost or price proposals but should require submission of more generalized

cost or price estimates. Cost or price considerations must be an evaluation factor in all selection decision(s). For software acquisitions the criteria should include, whenever appropriate, an evaluation of the maturity of the offeror's software acquisition, development and maintenance processes that are relevant to the procurement. Such evaluations should be performed using standardized instruments such as a Capability-Maturity-Model-based Evaluation.

Evaluation Plan

An evaluation plan must be prepared by the service organization and approved by the SSO for all procurements accomplished under this section. Evaluation plans should be concise and tailored to the specific needs of the procurement. The evaluation plan should include the name of the SSO and the names of the service organization members and evaluators, the evaluation criteria, the evaluation methods and processes, the schedule, and any other information related to the source selection. The evaluation plan should be completed and approved prior to the receipt of responses to any SIR requesting screening or qualification information.

Evaluation Method

The evaluation methodology should be set up to allow for maximum flexibility in selecting the offeror(s) providing the best value. To facilitate such flexibility, the following should be considered in setting up evaluations:

- Relative importance between criteria is not required (when relative importance is used, the relative order of importance between criteria should be disclosed).
- Each SIR may incorporate separate and/or distinct criteria that relate to the specific SIR discriminators.
- The use of either adjectival or numerical ratings is acceptable.
- Comparative evaluations between offerors' proposals/products are acceptable.
- The service organization should be selective/inventive concerning the screening requirements for document submissions (e.g., oral presentations, sample tests, plant visits, etc.).
- Communications with offerors during the evaluation may help clarify submittals, allow a fuller understanding of the offeror submittals, and provide a more comprehensive evaluation.
- Testing of products is encouraged to the maximum extent practical ("try before you buy").
- Award based on initial offers to other than the low cost or price offer is allowed.

Evaluation Process

The evaluation will be conducted by the service organization, in accordance with the stated evaluation criteria and evaluation plan. The service organization (including any additional required evaluators and/or advisors) should be limited in size and dedicated through the completion of the acquisition. The service organization is expected to apply sound judgment in determining appropriate variations and adaptations necessary for individual situations, provided that these do not constitute a departure from the basic concepts and intent of the evaluation plan and SIR(s).

Communications may be considered in the evaluation of an offeror's submittal(s). Verifiable information from outside sources may be considered in the evaluation and should be disclosed to the offeror during the communication process. Any such findings should be noted in the evaluation report.

Evaluation Report

The service organization must document the results of the evaluation, including recommendations, if applicable.

3.2.2.3.1.2.4 Changes in Requirements

If, after release of a SIR, it is determined that there has been a change in the FAA's requirement(s), all offerors competing at that stage should be advised of the change(s) and afforded an opportunity to update their submittals accordingly.

The SSO has authority to waive a requirement at any time after release of a SIR, without notifying other offerors where the SIR states that offeror specific waiver requests will be considered, and the waiver does not affect a significant requirement that changes the essential character or conditions of the procurement.

All determinations relating to changes in requirements, including waivers, will be documented in the evaluation report.

3.2.2.3.1.2.5 SSO Decision

Based on a review of the service organization's evaluation report, the SSO may either:

- Make a selection decision (see the selection phase below);
- Make a screening decision by screening those offerors determined to be most likely to receive award, thus continuing the screening phase;
- Amend and re-open to initial offerors; or
- Cancel the procurement.

To ensure the integrity of the FAA competitive source selection process, all SSO decisions should be based on the evaluation criteria established in the SIR and have a rational basis. All offerors who are eliminated from the competition based on any screening decision should be provided with the basis for their elimination within five working days after the screening decision and should be informed that they may request a debriefing after contract award. During the screening process, the SSO may decide to eliminate an offeror from further consideration without considering the cost or pricing information that was submitted in the response to the SIR. However, the final selection decision must consider the cost or price information that was submitted as part of the proposal.

If a screening decision, rather than a selection decision, is made, the service organization should issue another SIR (and repeat the screening process stated above) in order to make a selection decision (or another screening decision) among the remaining offerors. The screening process, starting at the issuance of the SIR, may be repeated until a selection decision is made or the procurement is canceled. In some circumstances it may be appropriate to down-select to one offeror for negotiation. However, if the FAA and the selected offeror cannot come to an agreement, the FAA may select another competing offeror for communications/award without issuance of further SIRs.

3.2.2.3.1.3 Selection Revised 10/2012

The selection decision must be based on the stated evaluation criteria including cost or price considerations to identify the best value.

The service organization must brief the SSO on their evaluation findings. The selection of the offeror who is expected to provide the best value solution is a matter committed to the discretion of the SSO. The SSO applies sound business judgment to the evaluation of the offeror's proposed solution against the stated evaluation criteria. In each case, the SSO should provide a rational basis for the screening or selection decision. The SSO should document the selection decision in the SSO decision memorandum (in cases where the CO and the Contracting Officer's Representative are the only service organization members, the evaluation report and the SSO decision memorandum may be one report). In making the selection decision, the SSO may accept or reject the service organization's recommendations provided there is a rational basis.

Based on the SSO's decision, the CO will transmit a proposed contract to the selected offeror. The selected offeror will return a properly executed contract. Upon the CO's signature, the proposed contract becomes a binding contract.

3.2.2.3.1.4 Debriefing

Once an award has been made, all offerors who participated in the competitive process will be notified of the award and given three working days from receipt of the award notification to request a debriefing. Debriefings are intended to provide meaningful feedback to offerors on their submission. The purpose of the debriefing is to improve the offeror's ability to successfully compete for future FAA business by discussing the strengths and weaknesses of the offeror's submissions. The debriefing should provide the offeror with the following information:

- SSO's Selection Decision;
- Offeror's evaluated standings relative to the successful offeror(s); and
- Summary of the evaluation findings (excerpts from evaluation summary documentation relating to the specific offeror).

The CO should request detailed questions from the unsuccessful offeror so the FAA can provide meaningful information during the debriefing. Debriefings should be conducted, as soon as practicable, with all offerors that request them.

3.2.2.3.1.5 Lessons Learned

A lessons learned memorandum is a valuable tool in which the service organization can relay its procurement experiences to other FAA acquisition personnel. Once an award has been made, the service organization should communicate its learning experiences. The communication should highlight those issues/processes that had significant impact on their procurement. Further, the service organization should discuss changes that could be made to ensure a more comprehensive evaluation and/or more timely award.

3.2.2.3.2 Reserved

3.2.2.3.2.1 Reserved

3.2.2.3.2.2 Reserved

3.2.2.3.2.3 Reserved

3.2.2.3.2.4 Reserved

3.2.2.3.2.5 Reserved

3.2.2.3.2.6 Reserved

3.2.2.4 Single-Source Selection Revised 1/2017

The FAA may contract with a single-source when in FAA's best interest and the rational basis for the decision is documented. This rational basis may be based on actions necessary and important to support FAA's mission, such as emergencies, standardization, and only source available to satisfy a requirement within the time required. For procurements not anticipated to exceed \$10,000, there is no requirement for competition or single-source justification; requirements must not be split to meet this exception. This section 3.2.2.4 is not applicable to noncompetitive awards made to socially and economically disadvantaged businesses (SEDB)/(8(a)) or service-disabled veteran owned small businesses (SDVOSB), both of which are governed under AMS policy 3.6.

The decision to contract with a single-source may be made as part of overall program planning. The rational basis must be documented and approved as a part of program planning in the Implementation Strategy and Planning Document, a procurement plan, or as a separate document. If an Implementation Strategy and Planning Document is not required and the service organization determines that a procurement plan is unnecessary, a separate single-source justification must be documented and endorsed by the service organization and approved by the CO.

Market analysis should be conducted to support each single-source decision, except for emergencies. The method and extent of the analysis depends on the requirement.

The program office must provide the CO with supporting documentation that justifies the proposed single source strategy decision. Examples of information that might be documented include results of market analysis, cost or price data, unique qualifications or performance capability, and past performance. Mere conclusions, without adequate objective supporting data, are insufficient.

After the decision to contract with a single source has been approved, a public announcement must be made for any action over \$150,000, except in emergencies. The purpose of the announcement is to inform industry about the basis for the decision to contract with the single source.

A basic contract may be modified to exercise an option, or to satisfy a follow-on procurement for more of the same products or services without seeking additional competition when, based on market analysis, there is a rational basis not to compete the requirement and the rational basis is documented and approved as discussed in this subsection.

The Contracting Officer must justify and document in accordance with this Section any increase in ceiling price of a time-and-materials or labor-hour contract.

3.2.2.4.1 Single-Source Procurement Process

The single-source procurement process includes planning, communications, award, and lessons learned. The actions for an individual phase within the process may vary depending on the particular circumstances.

3.2.2.4.1.1 Emergencies

An emergency situation, including but not limited to a threat to loss of life or property, national security, or restoration of an air traffic control facility, may require immediate contracting with a single source. In these instances, once funds are committed, the CO may verbally authorize a contractor to proceed and may combine single source phases or complete activities after the fact. As a minimum and as soon as practical, the CO should:

- Obtain funding certification;
- Document the single source decision; and
- Confirm authorization with written notification

3.2.2.4.1.2 Non-emergencies Revised 1/2017

For single-source non-emergency procurements, planning may include:

- Analyzing the market to determine potential sources;
- Developing an independent FAA cost estimate for any anticipated procurement action (to include modifications) whose total estimated value is \$150,000 or more, if not exempted by AMS 3.2.1.2.4;

- Obtaining funding certification;
- Obtaining approval of rationale for single source, except for follow-on or exercise of options; and
- Issuing public announcement, if in excess of \$150,000.

3.2.2.4.1.3 Lessons Learned

Communicating lessons learned is encouraged.

3.2.2.5 Commercial and Simplified Purchase Method Revised 6/2006

The FAA may acquire commercial products and services from the competitive market place by using the simplified purchase method described herein and best commercial practices. Commercial and simplified purchases are used for commercial items or for products or services that have been sold at established catalog or market prices and are generally purchased on a fixed-price basis. However, procurement of products available for purchase from Federal Prison Industries is governed by AMS 3.8.4.2.

3.2.2.5.1 Planning Revised 1/2017

Procurement planning should be accomplished for all simplified and commercial purchases. The level of planning and announcement should be dictated by the nature and complexity of the requirement, commercial availability, dollar value, urgency of the requirement, and degree of previous procurement history.

The purpose of procurement planning is to:

- Determine whether commercial items meet the FAA's needs;
- Identify potential commercial sources; and
- Publicly announce requirements in excess of \$150,000.

Market analysis should be simple and straightforward, and may include information based on personal knowledge of the market, historical purchase information, qualified vendors list, commercial catalogs, trade journals, newspapers, other professional publications or local telephone directories.

Contracting mechanisms are at the discretion of the CO. Purchases may also be made using the following mechanisms:

- Purchase card;
- Purchase card checks;
- Purchase order;
- Contract;

- Orally (only in emergency situations) with proper documents processed as soon as possible following the oral order; and
- Other methods, including interagency agreements, when deemed appropriate and properly documented.

3.2.2.5.2 Sourcing Determination

The CO should solicit an appropriate number of vendors to ensure quality products and services are delivered in a timely manner at a fair and reasonable price. Requirements should be stated in commercial terms generally understood and accepted in the industry.

3.2.2.5.3 Screening

The CO should determine the appropriate screening approach and format for vendor's responses (e.g., electronic, written, oral, use of standard commercial or FAA forms). The CO may also conduct communications with individual offerors, as appropriate, to address offeror understanding of the requirement, performance capability, prices, and other terms and conditions. For commercially available products, the CO is encouraged to use "commercial competition techniques" such as continuing market research throughout the process by using vendor proposals as the source of prices and commercially available capabilities and sharing that information with other vendors.

3.2.2.5.4 Selection Decision and Award

The CO's selection decision should be based on the FAA's stated evaluation criteria. The selection decision for commercial or simplified purchases should be based on the best value to the FAA including, but not limited to, factors such as price, functional specifications, delivery capability, warranty, and payment terms. This may be accomplished through establishing specific evaluation criteria with an accompanying evaluation plan as described under Complex, Noncommercial Source Selection, and making the selection based on the stated criterion. It may also be based on the most favorable solution available in the commercial market, as determined by the FAA, as described under Commercial and Simplified Purchase Method, or through a combination of methods depending on complexity, risk, dollar value, and urgency of the requirement.

3.2.2.5.4.1 Documentation

The method of selection and rationale for awards, and a determination that the price is fair and reasonable should be documented. The extent of the documentation depends on the complexity and dollar value of the procurement action.

3.2.2.5.5 Micro-Purchase Threshold Revised 4/2017

Simplified purchases with a total estimated potential value (TEPV) under the micro-purchase threshold must be performed using the purchase card. The micro-purchase threshold is \$10,000 for commercial supplies, construction and services.

3.2.2.6 Unsolicited Proposals

3.2.2.6.1 Policy Added 10/2008

The FAA may consider and accept unsolicited proposals when in the best interest of FAA. Unsolicited proposals are a valuable means for FAA to obtain innovative or unique methods or approaches to accomplishing its mission from sources outside FAA. Advertising material, commercial item offers, contributions, or technical correspondence are not considered to be unsolicited proposals. A valid unsolicited proposal must:

- Be innovative and unique;
- Be independently originated and developed by the offeror;
- Be prepared without FAA supervision;
- Include sufficient detail to permit a determination that the proposed work could benefit FAA's research and development, or other mission responsibilities; and
- Not be an advance proposal for a known FAA requirement that can be acquired by competitive methods.

3.2.2.6.2 Receipt and Initial Review Revised 10/2008

Unsolicited proposals should be addressed to:

Federal Aviation Administration
Acquisition Policy and Oversight
Acquisition Policy Group (AAP-100)
Attn.: Unsolicited Proposal Coordinator
800 Independence Avenue SW, Room 439W
Washington, DC 20591

Once received, the FAA unsolicited proposal coordinator will review and determine if the document(s) meets the requirements of an unsolicited proposal.

3.2.2.6.3 Prohibitions Added 10/2008

FAA personnel should not use any data, concept, idea, or other part of an unsolicited proposal as the basis, or part of the basis, for a SIR or in communications with any other firm unless the offeror is notified of and agrees to the intended use. However, this prohibition does not preclude using any data, concept, or idea available to FAA from other sources without restrictions.

FAA personnel must not disclose restrictively marked information included in an unsolicited proposal. The disclosure of such information concerning trade secrets, processes, operations, style of work, apparatus, and other matters, except as authorized by law, may result in criminal penalties under 18 U.S.C. 1905.

3.2.2.7 Contractor Qualifications

3.2.2.7.1 Applicability

This section applies to all contracts and to all proposed contracts with any prospective contractor that is located in the United States, its possessions, or Puerto Rico; or elsewhere, unless application would be inconsistent with the laws or customs where the contractor is located.

3.2.2.7.2 Contractor Responsibility

The CO must ensure that contracts are awarded only to responsible contractors (see Section 3.2.2.2). No award may be made unless the CO makes an affirmative determination of responsibility.

3.2.2.7.3 Contractor Team Arrangements

FAA will recognize the validity of contractor team arrangements, provided, the arrangements and company relationships are fully disclosed in an offer, or for arrangements entered into after submission of an offer, before the arrangement becomes effective.

3.2.2.7.4 Suspension and Debarment

FAA may suspend or debar contractors for cause. FAA will honor suspension, debarment, and ineligibility decisions of other agencies unless FAA has a compelling need to obtain the requirement from that contractor.

3.2.2.8 Describing FAA Needs

3.2.2.8.1 Applicability

The requirements herein apply to all FAA procurements and agreements except real property and utilities.

3.2.2.8.2 Policy

The FAA will describe its needs clearly and generally in writing, absent special or emergency circumstances. Service organizations may describe needs as minimum requirements, goals, or in another form well suited to the contemplated procurement.

3.2.2.9 Rehabilitation Act

The FAA must comply with Section 508 of the Rehabilitation Act of 1973 in developing, procuring, maintaining or using electronic and information technology. Section 508 of the Rehabilitation Act of 1973 applies to all new procurements after June 21, 2001.

3.2.3 Pricing Methodology, Principles and Standards Revised 10/2011

3.2.3.1 Applicability Revised 10/2011

This section applies to pre- and post-award pricing and analysis for contracts, subcontracts, orders, and modifications, excluding real property and utilities.

3.2.3.2 Cost and Price Analysis Revised 1/2016

The CO must make a determination that prices are fair and reasonable based on price analysis and, if necessary, cost analysis. Price analysis is the review of price without evaluating separate cost elements and profit/fee, and is required for all pricing actions. Cost analysis is the review of the individual cost elements and profit. Price analysis is the preferred method for evaluating competitive proposals. If the CO determines price competition is not adequate to support a determination of price reasonableness, the CO must require offerors to submit either certified cost or pricing data or information other than certified cost or pricing data. When the CO determines adequate price competition exists, certified cost or pricing data must not be requested. In situations with established catalog or market prices, prices set by law or regulation, or commercial items, price analysis is sufficient and the CO must not request cost data.

3.2.3.3 Pre- and Post Award Audits Revised 1/2012

The CO must request pre-award and post-award audits on all cost reimbursement contracts exceeding \$100 million. In addition, FAA will request pre-award and post-award audits on at least 15% of all cost reimbursement contracts not anticipated to exceed \$100 million. For other contract types, the CO may use any method of cost or price analysis to determine fair and reasonable prices.

Pre-award audits and post-award incurred cost audits are the preferred mechanism to assist the CO in ensuring valid indirect and direct costs are billed under cost reimbursement contracts. The CO is responsible for ensuring indirect and direct costs under a cost reimbursement contract are allowable.

In situations where an incurred cost audit is not obtained, the CO will still ensure that only allowable costs are paid.

The sponsoring service organization will fund required pre- and post- award audits and must include an estimate of the cost of audits in the Acquisition Program Baseline; the Implementation Strategy and Planning Document will describe the approach, responsible organizations, and activities for obtaining audits.

3.2.3.4 FAA Cost Principles Added 10/2011

The FAA contract cost principles, as described in AMS Procurement Guidance, must be used to price contracts, subcontracts, orders, and modifications whenever cost analysis is performed. Cost principles must also be used for determining, negotiating, or allowing costs when required by a contract clause. The CO must incorporate FAA cost principles in contracts with commercial organizations as the basis for:

- Determining reimbursable costs under (a) cost-reimbursement contracts and cost-reimbursement subcontracts under these contracts performed by commercial organizations and (b) the cost-reimbursement portion of time-and-materials contracts except when material is priced on a basis other than at cost;
- Negotiating indirect cost rates, when FAA has division or corporate contract administration responsibilities, quick close-out procedures are used, or indirect rate caps are negotiated in the contract;
- Proposing, negotiating, or determining costs under terminated contracts;
- Price revision of fixed-price incentive contracts;
- Price re-determination of price re-determination contracts; and
- Pricing changes and other contract modifications.

When another Government agency has division or corporate contract administration responsibilities, FAA may agree to cost principles of the administering agency to determine or negotiate indirect rates not covered by (a) or (b) above.

3.2.3.5 Cost Accounting Standards Added 10/2011 Revised 10/2018

All contractors and subcontractors must use Cost Accounting Standards (CAS) according to 48 CFR Part 99 for estimating, accumulating, and reporting costs in connection with pricing, administering, and settling disputes concerning all negotiated prime and subcontract procurements over \$1,0700,000 or more, except for contracts or subcontracts exempted by these regulations. The following categories of contracts and subcontracts are exempt from all CAS requirements:

- Negotiated contracts and subcontracts less than of \$1,0700,000 or less. For purposes of this paragraph, an order issued by one segment to another segment must be treated as a subcontract;

- Contracts and subcontracts with small businesses;
- Contracts and subcontracts with foreign governments or their agents or instrumentalities or (insofar as the requirements of CAS other than 9904.401 and 99.402 are concerned) any contract or subcontract awarded to a foreign concern;
- Contracts and subcontracts in which the price is set by law or regulation;
- Firm fixed-priced and fixed-price with economic price adjustment (provided that price adjustment is not based on actual costs incurred), time-and-materials and labor-hour contracts and subcontracts for acquisition of commercial items;
- Contracts or subcontracts of less than \$7.5 million, provided that, at the time of award, the business unit of the contractor or subcontractor is not currently performing any CAS- covered contracts or subcontracts valued at \$7.5 million or greater;
- Contracts and subcontracts to be executed and performed entirely outside the United States, its territories, and possessions; and
- Firm fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of cost or pricing data.

3.2.4 Types of Contracts

3.2.4.1 Applicability

This section is applicable to contracts for procurement of all products and services.

3.2.4.2 Policy

Contracts may be of any type or combination of types except for cost plus a percentage of cost contracts, which are prohibited. The use of fixed-price contracts is strongly encouraged whenever appropriate. Development contracts may be incrementally phased fixed-price contracts. All contracts, except those issued in emergency situations, must be in writing.

3.2.4.3 Guidance and Principles Revised 10/2018

The types of contracts that may be used for FAA procurements are ~~included in the toolbox~~addressed in [AMS guidance](#). Types of contracts other than those specified in the ~~toolbox~~guidance may be used when approval has been obtained from an official one level above the CO within the contracting organization.

Contracting officers should clearly identify the type of contract(s) at the front of each contract and in SIRs, when appropriate. Where multiple types of contracts are used in one contract, performance requirements, terms and conditions, and prices (or estimated cost and fee) for each type of contract should be clearly separated and partitioned.

The multi-year contract may be used for the acquisition of products and services in accordance with any applicable restrictions and appropriate appropriations acts.

3.2.5 Contractor Ethical Guidelines

3.2.5.1 Applicability

This policy is applicable to all contracts.

3.2.5.2 Policy

FAA business must be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.

3.2.6 Purchase Card Program Added 1/2009

3.2.6.1 Applicability Added 1/2009

Purchase card policy and corresponding guidance apply only to actions conducted through the FAA purchase card program.

3.2.6.2 Policy Added 1/2009

All procurements using an FAA purchase card must be conducted according to applicable laws, regulations, and FAA policy. AMS procurement guidance for purchase cards establishes standards for competition and source selection that supersedes other applicable AMS policy and guidance.

3.2.7 Anti-Counterfeit Management Added 4/2014

3.2.7.1 Applicability Added 4/2014

Anti-Counterfeit policy and non-conforming parts requirements are applicable to (1) contracts over \$50M; (2) construction contracts for NAS applications over \$2M; and (3) office equipment and/or supplies for NAS applications over \$2M.

3.2.7.2 Suspected Counterfeit and Non-Conforming Parts Added 4/2014

Anti-Counterfeit policy, guidance and procedures apply to securing the FAA equipment supply chain from counterfeit and non-conforming parts.

The CO must ensure that instruction to contractors result in the most efficient and economical way to mitigate the entry of suspected counterfeit and non-conforming parts in the FAA supply chain by:

- Not knowingly procuring suspected counterfeit and non-conforming parts.

- Documenting all occurrences of suspected and confirmed counterfeit parts in the appropriate reporting system, including the Government-Industry Data Exchange Program (GIDEP).
- Making information about counterfeiting accessible at all levels of the FAA supply chain as a method to prevent further counterfeiting.
- Notifying the appropriate FAA investigative organization, or US Government intelligence authorities, and those who use the suspected and confirmed counterfeit parts, of incidents at the earliest opportunity

Section Revised:
4.2.3.14.2 Procurement Integrity Act

Acquisition Management Policy - (~~7/2018~~ 10/2018)

4.2 Real Property

4.2.1 Applicability Revised 1/2008

4.2.2 Guiding Principles Revised 1/2012

4.2.2.1 Contracting Authority Revised 10/2014

4.2.2.2 Real Property Definition Added 10/2008

4.2.3 Policy Revised 1/2008

4.2.3.1 Legal Coordination of Real Property Actions Revised 7/2016

4.2.3.2 Request Revised 1/2008

4.2.3.3 Requirements Revised 1/2012

4.2.3.3.1 Succeeding Leases/Renewal Leases Revised 7/2012

4.2.3.3.1.1 Timing of renewal/succeeding lease efforts Added 1/2008

4.2.3.3.1.2 Emergency Reservation of Expiring Funds for Continued FAA Occupancy Added 1/2008

4.2.3.3.2 Other Requirements to consider Added 1/2008

4.2.3.3.2.1 Administrative Space Order 4665.4 and GSA-Controlled Space Request Revised 7/2016

4.2.3.3.2.1.1 General Services Administrative (GSA) Space Request Revised 7/2016

4.2.3.3.2.2 No-Cost Land on Airport Memorandum of Agreement Added 1/2008

4.2.3.3.2.3 Rural Development Act Requirements Added 1/2008

4.2.3.3.2.4 Security Added 1/2008

4.2.3.3.2.5 Seismic Safety Revised 10/2014

4.2.3.3.2.6 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24) Added 1/2008

4.2.3.3.2.7 Vehicle Policy Added 1/2008

4.2.3.3.2.8 Environmental / Sustainability /Energy Considerations Revised 7/2016

4.2.3.3.3 Budgetary Review Revised 4/2015

4.2.3.4 Procurement Method Revised 1/2012

4.2.3.5 Solicitation for Offers Revised 1/2012

4.2.3.5.1 Market Survey/Advertisement/Appraisal Added 1/2008

4.2.3.5.2 Use of Brokers/Agents Added 7/2016

4.2.3.6 Evaluation of Offer(s) Revised 1/2008

4.2.3.6.1 Negotiation Added 1/2008

4.2.3.6.2 Communication Added 1/2008

4.2.3.7 Utilities Revised 4/2012

4.2.3.8 Condemnation Revised 1/2008

4.2.3.9 Award Revised 4/2008

- 4.2.3.9.1 Terms of Leases Revised 4/2009
 - [4.2.3.10 Alterations and Improvements](#) Revised 10/2012
 - [4.2.3.11 Inspection and Acceptance](#) Revised 1/2008
 - [4.2.3.12 Disposal of Real Property](#) Revised 1/2008
 - [4.2.3.13 Documentation](#) Revised 1/2008
 - 4.2.3.13.1 Accountability Added 1/2008
 - 4.2.3.13.2 REMS Revised 1/2010
 - [4.2.3.14 Miscellaneous Provisions](#) Revised 1/2008
 - 4.2.3.14.1 Disclosure of Information Added 1/2008
 - 4.2.3.14.2 Procurement Integrity Act Revised ~~10/2014~~ 10/2018
 - 4.2.3.14.3 Organizational Conflicts of Interest Added 1/2008
 - 4.2.3.14.4 Conflict of Interest Added 1/2008
 - 4.2.3.14.5 Electronic Commerce in Contracting Revised 1/2008
 - 4.2.3.14.6 Disaster or Emergency Preparedness and Response Added 8/2009
 - [4.2.3.15 Conveyance](#) Added 1/2012
 - [4.2.4 Housing Policy](#) Added 10/2011
 - [4.2.5 Real Estate Certification and Warrant Requirements](#) Revised 7/2013
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4.2 Real Property

4.2.1 Applicability Revised 1/2008

This policy applies to the acquisition, management, and disposal of real property interests by lease, purchase, condemnation, or otherwise, as well as services related to such acquisition, management, and disposal, other related services, and utilities. This policy codifies the authority for real property transactions by FAA; however, it must be read in conjunction with Procurement Policy 3.0. In the event of a conflict between these provisions and Procurement Policy 3.0, these provisions will govern. Roles and responsibilities in real property transactions, and definitions of real property terms are found in Appendix 1 of this Chapter. For clarification of real property terms and to obtain real property information not found in this Chapter, contact ALO-200.

4.2.2 Guiding Principles Revised 1/2012

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 must 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;
- 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;
- 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.

4.2.2.1 Contracting Authority Revised 10/2014

The FAA Administrator has been given broad statutory acquisition authorities in Title 49 United States Code. Pursuant to the provisions of Title 49, the Administrator is the final authority for carrying out all functions, powers, and duties of the FAA Administration relating to the acquisition and maintenance of property and equipment. The Administrator has broad authority "to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration . . .with any Federal agency, or any instrumentality of the United States, any territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate." (49 U.S.C. 106(1)(6).) In addition, the Administrator has the authority to enter into leases that require the use of appropriated funds for terms of up to 20 years. (49 U.S.C. 40110.)

The FAA Administrator may establish contracting activities and delegate to the Acquisition Executive broad authority to manage FAA contracting functions. The Acquisition Executive is authorized to appoint Chiefs of the Contracting Office (COCOs) and redelegate the contracting authority to them. The COCO may redelegate the contracting authority to individuals within their management area who have met the training requirements of the AMS and have demonstrated the appropriate knowledge and experience needed to execute this authority on behalf of the Government. Those who have been delegated contracting authority include procurement and real estate contracting officers (RECOs), logistics management specialists, and managers of the purchase card program.

The delegation of contracting authority to the RECOs, like that to COs and other qualified persons is by written warrant or other certificate of appointment. Contracts, leases, agreements, grants and other transactions may be entered into and signed on behalf of the FAA only by RECOs with a written certificate of appointment. The certificate of appointment or RECOs warrant must expressly state the types of transactions authorized by the delegation, and any limitation to the authority granted. If the authority is not specified in the warrant or certificate of appointment, that authority does not exist. The delegated authority of individual employees below the COCO is not transferable. For further information, please see "Warrant Levels for RECOs." Information on the limits of the contracting officer's authority must be readily available to the public and FAA personnel.

The RECO must have warrant authority commensurate with the total estimated potential value (see 6.0 Training, in Real Estate Guidance) of a transaction. Modifications after the original award are considered standalone actions when calculating the total estimated potential value; therefore, a Contracting Officer's warrant needs to have a dollar limitation sufficient to award the total of a modification, but not the entire value of the contract, order, lease or agreement.

Key contracting duties and responsibilities for fund certification, are to be separated among individual people. For a particular requirement, the same person must not requisition, certify funds availability, approve, and obligate funds.

Acquiring real property interests and utilities is a time-consuming process, and involvement of the Real Estate Contracting Office (RECO) at the earliest opportunity will expedite the procurement. Such early involvement will allow for needed planning and coordination, and will ensure that all applicable statutory and regulatory requirements are met and the acquisition is completed in sufficient time to meet the FAA's needs.

4.2.2.2 Real Property Definition Added 10/2008

Real property is defined in Appendix C of AMS policy.

4.2.3 Policy Revised 1/2008

The procurement process is to be conducted following best commercial business practices, in a fair and equitable manner. Real property interests, related services, and utilities will be acquired by the competitive method whenever practical and reasonable. All real estate transactions (acquisition, management and disposal) will comply with all Federal statutes, Executive Orders, Federal regulations, FAA Orders and the Acquisition Management System (AMS). If there is a conflict between the AMS and FAA Orders, the AMS provisions will govern.

4.2.3.1 Legal Coordination of Real Property Actions Revised 7/2016

Certain real property actions will be reviewed in accordance with the legal coordination policy set forth in 1.2.14 of AMS policy and Real Property Guidance Section 7.0. Legal coordination is required for: 1) all non-competitive acquisitions of real property having a total value exceeding \$10,000; or 2) all competitive real property acquisitions, including, but not limited to, new or succeeding leases, lease renewals, and lease modifications having a total value over \$100,000; 3) all condemnations, purchases and disposals of interests in real property; and 4) all additions and revisions, other than those revisions to correct typographical errors, to the published real property document provisions/clauses.

4.2.3.2 Request Revised 1/2008

The acquisition process may start with an informal request; however, prior to issuance of a Solicitation For Offer or proposed Lease contract, a signed request from the using service/requiring office must be received. If rental or other costs are involved in the acquisition, a certification of funding must be received prior to any obligation of funds or award of a lease/contract. One document may serve as both the request and the funding certification.

4.2.3.3 Requirements Revised 1/2012

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.

4.2.3.3.1 Succeeding Leases/Renewal Leases Revised 7/2012

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 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 to the extent practicable 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~~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.

4.2.3.3.1.1 Timing of renewal/succeeding lease efforts **Added 1/2008**

In order to complete a renewal or succeeding lease transaction prior to the lease expiration date and prevent FAA from becoming a holdover tenant, the RECO must commence the renewal process, or the process of entering into a succeeding lease, at least 18 months prior to the lease expiration date for all FAA direct land and space leases. For all GSA controlled space, the RECO must commence the renewal process at least 24 months prior to the lease expiration date. This 18-month period is a suggested minimum. Each lease transaction should be considered individually by the RECO and the RECO may determine to afford the transaction additional time if the RECO is aware of issues that could jeopardize timely completion of the lease transaction.

4.2.3.3.1.2 Emergency Reservation of Expiring Funds for Continued FAA Occupancy

Added 1/2008

If a continuing need has been determined and it appears the lease will expire without a Supplemental Lease Agreement for a ~~short-term~~short-term extension, or succeeding lease has not been awarded, then

- The RECO must notify his manager, regional counsel, and the LOB Budget office of issue.
- The RECO must continue negotiating an extension via an SLA for continuing payments at the current lease rental rate.
- If the lessor still refuses to sign a temporary agreement, then the RECO must take steps to ensure that sufficient funds are either reserved, or set aside for settlement of the holdover period. A holdover period should not exceed 6 months.
 - If extensions go on longer than 6 months or if the lessor wants the FAA to leave the premises, the RECO may be in a condemnation posture. The RECO needs to prepare

the affected LOB and discuss setting aside funds for a potential condemnation. See Real Estate Guidance 1.1.19: Condemnation

- During the 6 months of continued occupancy past the expiration date, the RECO will continue to negotiate an extension or new lease agreement.
- However, prior to the end of the current fiscal year, the RECO will notify the affected LOB of the potential need to reserve the minimal funds necessary to pay for the FAA's occupancy during the continued occupancy period, and provide an estimate. If the LOB wishes to reserve funds from the soon to be expiring budget year, they must provide a requisition to the RECO, and the RECO will reserve the estimated rent as an emergency contract. The RECO will send a formal memo to the Accounting office of the emergency reservation of funds, and to await further instructions from the RECO on when to make any payments. Note: The RECO must document in the file a justification for the emergency reservation of funds.
- If the LOB validates, it can pay the back rent from current year funds, it is not necessary to perform the emergency reservation of funds.
- Once a final lease agreement is negotiated, the RECO must perform a modification to the emergency lease to document the conversion to a fully executed lease contract. Any difference in lease rental payment should be settled and paid at that time.
- For additional information please see guidance on hold over tenancy. See Real Estate Guidance 1.1.5.2: Succeeding Leases/Lease Renewals

4.2.3.3.2 Other Requirements to consider Added 1/2008

4.2.3.3.2.1 Administrative Space Order 4665.4 and GSA-Controlled Space Request Revised 7/2016

The RECO and the LOB must use the guidelines from the FAA Order 4665.4A Federal Aviation Administration (FAA) Administrative and Technical Space Standards. This order provides standards for the construction, reconfiguration and consolidation of administrative and technical spaces; promotes workforce mobility and workplace flexibility; and improves the Agency's space utilization rate.

This order applies to those responsible for planning, procuring, implementing, maintaining, or occupying administrative and technical spaces in the FAA. It also applies to any other person or entity who has a formal written agreement with the FAA to plan, implement, or maintain FAA space.

4.2.3.3.2.1.1 General Services Administrative (GSA) Space Request Revised 7/2016

Requesting Line of Business (LOB) office must obtain prior approval for space requests from the ALO-200 Strategic Planning by submitting a documentation for the space which contains the following: a completed SF-81/SF- 81A or a written document with space request, justification/reason for request, complete staffing (workstation patterns, floor plans if available), office space per person, support space, special space by type, number of parking spaces required for government owned vehicles.

For all new, renewal, and lease expiration for General Services Administration (GSA) controlled space, the RECO must notify ALO-200 for prospectus projects at a minimum of 36 months and non-prospectus projects at a minimum of 18 to 24 months, prior to execution of a GSA Occupancy Agreement (OA). Prior to making any commitment to the Regional GSA regarding prospectus level projects, the point of contact (POC) for the National GSA Rent Program must notify ALO-200. Notification must take place at a minimum of 36 to 60 months prior to execution of a GSA OA.

The LOB servicing office must ensure the use of available Government-owned space before leasing or otherwise acquiring space. The LOB office must follow the guidance for "Chief Financial Officer Review of GSA Space Request over \$10 Million" for all GSA-controlled space.

4.2.3.3.2.2 No-Cost Land on Airport Memorandum of Agreement Added 1/2008

The RECO must use the [No-Cost Land on Airport Memorandum of Agreement](#) for transactions with airport sponsors who receive Airport Improvement Funds. Land for NAVIDS on airports without Airport Grant Assurances (including military airports) will be leased using the standard on airport land lease template. When an airport has received an Airport Grant Assurance requiring it to provide rent free space to the FAA, the RECO must follow Rent-Free Guidance (2.4.5: Appendix E: Rent-Free Guidance) until otherwise notified.

4.2.3.3.2.3 Rural Development Act Requirements Added 1/2008

The FAA requesting office/using service must give first consideration to rural areas when searching for locations for new space, other facilities (i.e. research and development facilities, warehouses, labs, clinics, etc.), and land acquisitions, unless mission or program requirements call for urban areas. A rural area is defined as a city, town, or unincorporated area that has population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

4.2.3.3.2.4 Security Added 1/2008

In developing & finalizing lease requirements, the RECO must coordinate with both the LOB and the Servicing Security Element (SSE) to comply with the personnel requirements of FAA Order 1600.72A, Contractor and Industrial Security Program and the facility security requirements of FAA Order 1600.69B, Facility Security Management Program. It is the responsibility of the SSE to classify the users, the risk and the accessibility levels of the tasks to be performed and determine whether an FAA badges should be issued to the contractor employees.

Prior to executing any lease or lease renewal requiring access to programs or resources located in the leased space, the RECO must have a FAA Form 1600-77 Contractor Position Risk/Sensitivity Level Designation Record signed off by the SSE (see FAA Order 1600.72A). If the SSE makes changes to the 1600-77 submitted for their signature, the RECO will accept changes.

4.2.3.3.2.5 Seismic Safety Revised 10/2014

It is FAA policy to provide/acquire space that complies with current federal standards for seismic safety. This policy is applicable to all space, whether such space is newly leased space, leased space subject to renewal, the purchase or construction of new buildings, or space undergoing major, renovations, where cost exceeds 50% of replacement value, in existing buildings. This policy is in accordance with the requirements of Executive Order (E.O.) 12699, E.O. 12941 and P.L. 101-614. In existing buildings, FAA follows National Institute of Standards and Technology (NIST) RP-8, [Standards for Seismic Safety for Existing Federally Owned or Leased Buildings, December 2011](#). RP-8 requires a "Seismic Safety Certification" that complies with the requirements of the American Society of Civil Engineers (ASCE) Standard 31-03, *Seismic Evaluation of Existing Buildings*, to be performed by a qualified structural engineer, prior to signing a new lease, renewing an existing lease, or granting rights to locate a privately owned structure on federal property. For new construction, the minimum standard for seismic compliance is the current edition of the International Building Code (IBC). In addition, the construction must be certified by a licensed structural engineer as meeting the requirements of the IBC.

RP-8 Section 1.3 lists exemptions from the seismic compliance requirements, and an exception that may relieve an Agency of the seismic safety certification requirement. However, these exemptions must be applied on a case-by-case basis. Further details on Seismic Safety procedures are found in Real Property Guidance section (2.4.8 Appendix H: Seismic).

4.2.3.3.2.6 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24) Added 1/2008

To the extent that it is applicable to FAA real property transactions, FAA RECOs must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (promulgated in 49 CFR Part 24). See http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr24_main_02.tpl and http://www.fhwa.dot.gov/real_estate/archives/uafnl99.cfm. Provisions of the Uniform Act are mandatory and are applicable to each Federal agency that administers programs or provides financial assistance for projects, which involve land acquisition or relocation assistance.

4.2.3.3.2.7 Vehicle Policy Added 1/2008

To the extent that parking space is available and affordable, it is the policy of the FAA to provide adequate parking for official Government vehicles and adequate free parking for employee vehicles at all FAA-owned and leased facilities. In order to promote fuel conservation, reduce traffic congestion, reduce demand for parking spaces and reduce air pollution, the FAA will make available as many parking spaces as possible for the use of vanpools/carpools. For more information please see vehicle guidance (2.4.2 Appendix B Vehicle Parking Guidance).

4.2.3.3.2.8 Environmental / Sustainability / Energy Considerations Revised 7/2016

The FAA supports, to the extent financially feasible and allowable by its mission, all environmental, energy savings and sustainability laws, regulations, and orders applicable to environmental/energy/sustainable areas. The RECO must follow the requirements as outlined below and in the corresponding provisions in the Real Estate Guidance. FAA SOs/LOBs must use an ISO 14001 Environmental Management System (EMS) to manage their environmental aspects, including Environmental Requirements, Energy and Sustainability aspects described in Sections A, B and C, below. For further information, please review the real estate guidance for land and space.

A. Environmental Requirements.

1. Environmental Due Diligence: FAA real property transactions are subject to the requirements of FAA Order 1050.19B, Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions, in order to identify and minimize potential environmental liabilities associated with the condition of the property and past activities at the site. Environmental due diligence requirements must be completed prior to executing contracts for the initial acquisition or disposal of real property, including the conveyance, sale or transfer of any FAA land, buildings, and structures.
2. National Environmental Policy Act (NEPA): Before acquiring (by lease, purchase, or otherwise) any additional land (new sites or to expand existing sites), the FAA must comply with all applicable requirements of the National Environmental Policy Act (NEPA) in accordance with the latest version of FAA Order 1050.1, *Environmental Impacts: Policy and Procedures*. The appropriate level of environmental review must be determined by the program office Environmental Specialist or the project designated Environmental Specialist. The RECO must obtain written notification from the program office that all applicable NEPA requirements have been met prior to proceeding with the land acquisition. The written notification must be placed in the real estate file.

B. Energy Requirements

Energy Star certified spaces: Section 435 of the Energy Independence and Security Act of 2007 (EISA) prohibits Federal agencies from leasing buildings that have not earned an Energy Star label after December 19, 2010 unless the space requirement comes within the specific exemptions provided in the EISA statute. For the list of exemptions, see Real Estate Guidance 2.4.1 Appendix A: Space Administrative Guidance. In order to ensure compliance with EISA Section 435, when a RECO leases space greater than or equal to 10,000 gross square feet, the building must have earned an Energy Star label in the most recent year, or the ownership must commit to earn the Energy Star label within one year following the lease execution. The RECO can determine the acquisition is financially feasible if the rental offered for a conforming building is no more than 10% over the market rate. If the RECO determines the cost of a conforming building is not financially feasible, documentation must be maintained in the real estate file.

C. Sustainability Requirements

Executive Order (EO) 13693, *Planning for Federal Sustainability in the Next Decade*, sets goals for federal agencies to make their building inventories compliant with the February 2016, *Guiding Principles for High Performance and Sustainable Buildings* (Guiding Principles). The Guiding Principles establish building standards for: integrated design, energy performance, water conservation, indoor environmental quality, environmental impact of materials, and climate resilience.

Leases are no longer included in calculating compliance with the Guiding Principles (only owned buildings are included). However, the RECO should strive to incorporate as many of the Guiding Principles as possible in new lease actions when financially feasible. This may include leasing in buildings that have received Leadership in Energy and Environmental Design (LEED) certification. The space acquisition must be considered financially feasible if the rental offer for space in a conforming building is no more than 10% greater than the market rate for a comparable conventional building in the same rental market.

4.2.3.3.3 Budgetary Review Revised 4/2015

Funding requirements for all real property transactions must be submitted to Real Property Division, ALO-200, the appropriate budget office and the service area budget lead for review prior to the RECO committing the Government (signing the contract) to ensure compliance with 4.2.3.3.1 Succeeding Leases/Renewal Lease which states “In accordance with the provisions of 49 USC 40110(c)(1) , which references 1341(a)(1), a RECO may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation”. For further information see 3.1.4 Budget Review and Approval.

4.2.3.4 Procurement Method Revised 1/2012

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.

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 a single-source procurement.

4.2.3.5 Solicitation for Offers Revised 1/2012

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 must 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.

4.2.3.5.1 Market Survey/Advertisement/Appraisal Added 1/2008

When utilizing the competitive method of procurement, the FAA must conduct a market survey to obtain market information and identify potential sources within the geographic area of consideration or market once the lease requirements have been finalized. Market survey data can be used to: determine the availability of properties within the area of consideration; eliminate unsatisfactory properties from consideration; determine the willingness of landowners to provide property for the FAA's use; determine fair market rents; determine suitability of responses to advertisements; and, determine the estimated cost for the leasehold. When possible, the survey should include on-site visits

with the requesting office to determine if suitable properties are available, or if properties offered in response to an advertisement meet requirements. Prior to conducting the market survey, the FAA should have developed a draft Solicitation for Offer or a draft lease contract defining specific requirements. The draft SFO or draft lease contract should be reviewed with the offer or offeror's representative to ensure a full understanding of FAA's requirements.

As mentioned above, advertising is not required for the acquisitions of site-specific locations or those determined to be appropriate for single source procurement. Also the requirement need not be publicly advertised when the FAA determines that it is not warranted, or reasonable competition has been achieved without advertising. If the RECO determines that advertising is required, the publicizing method that should be used is that which is most likely to result in the receipt of offers appropriate to satisfy the specific requirement. Acceptable methods of advertisement include, but are not limited to, publication of the requirement in a newspaper in the jurisdiction where the requirement is located, and publicizing the requirement on a real estate or other website.

In addition to the market survey information, an appraisal may/should be obtained by the RECO to assist in the determination of the fair market rent, and of the value or just compensation for the purchase of a specific property. An appraisal is a formal written statement that a qualified appraiser prepares independently and impartially, giving an opinion, as of a specified date, of the defined value of a described parcel of real property, supported by the presentation and analysis of relevant market information.

4.2.3.5.2 Use of Brokers/Agents Added 7/2016

RECOs are prohibited from entering into any type of contract or agreement, including a letter contract, that acknowledges, authorizes, or any way states or implies that a real estate broker or a real estate agent represents the FAA or Government in a real property transaction. This prohibition does not restrict the RECO from contacting Listing or Cooperative Brokers or real estate agents to gather information concerning properties available for sale or lease within a particular geographic delineated area and/or from requesting or receiving market information and rental rates/sale prices with respect to that area. Neither does this section prohibit the RECO from acknowledging, if asked, that a Cooperative Broker was instrumental in bringing a particular property to the RECO's attention.

4.2.3.6 Evaluation of Offer(s) Revised 1/2008

If the competitive method is used, once offers are received, selection for final award may be made. Selection from the competitive method may be made based upon that proposed offer that best meets the FAA's requirements as defined in the SFO or proposed contract lease document. If the acquisition is being conducted using the single-source method, the RECO can begin negotiations with the single offeror immediately upon receipt of an offer.

4.2.3.6.1 Negotiation Added 1/2008

Based on the results of market surveys or appraisals, the RECO must negotiate with property owners to obtain the necessary land/space interests at a fair and reasonable cost. The RECO should remember that the value of the Government's enhancements to the property, or the intended use of the property by the Government, should not be considered in determining the procurement or lease cost of the real property. The offer(s) should be reviewed to determine which offer(s) best meets the requirements as indicated in the SFO and/or proposed lease contract. Any reasonable offer received up to the point of award may be accepted and considered at the discretion of the RECO. If the evaluations indicate that the offerors have different interpretations of the FAA's requirements, the RECO is encouraged to implement a process to clarify the ambiguities and allow offerors to revise their proposals in accordance with the clarifications provided.

The evaluation should include a full analysis of the total payment of rent and other costs to the FAA and the total cost of any alternatives considered. The reasonableness of specific costs should be evaluated against data from sources such as market surveys, appraisals, or Government estimates. The cost to the FAA should be based on the fair market value of the procurement, and not include any value created by the FAA's enhancements or intended use. This can be done by appraisal or use of market data. This is true for competitive or non-competitive space. The final selection should result in the best value to the FAA.

The RECO must use the [Negotiator Report](#) to document negotiations for all types of leases – space and land, cost and no cost. This document must be used for the entire process, i.e. before offers received, during evaluation and award recommendation and after award.

4.2.3.6.2 Communication Added 1/2008

All items may be communicated and discussed with offerors with the goal of clarifying the FAA's needs and providing a basis for the final contract to assure that all costs involved are fair and reasonable. Communications may continue up to the point of award and may be terminated at any time by the FAA.

During final communications, an offeror can be asked to lower the proposed price/rental to a stated rate.

At any time during the real property procurement process, if the parameters of a competitive offer have been determined, any offer falling within these parameters may be selected at the discretion of the RECO for direct communication.

Communications with all potential offerors should take place throughout the competitive process. Communications may start in the planning phase and continue through contract award. All SFOs and/or proposed lease contracts should clearly inform offerors how communications will be handled during the initial screening phase.

The purpose of communications is to ensure there are mutual understandings between the FAA and the offerors about all aspects of the procurement, including the offerors' submittals. Information

disclosed as a result of oral or written communication with an offeror may be considered in the evaluation of an offeror's submittal.

To ensure that offerors fully understand the intent of the SFO and/or proposed lease contract, the FAA may conduct one-on-one meetings with individual offerors. One-on-one communications may continue throughout the process, as required. Communications with one offeror do not necessitate communications with other offerors, since communications will be offeror-specific. Regardless of the varying level of communications with individual offerors, the RECO must ensure that such communications do not afford any offeror an unfair competitive advantage.

Communications may necessitate changes in the FAA's requirements. If, after release of a SFO and/or proposed lease contract, it is determined that there has been a change in the FAA's requirement(s), all offerors competing at that stage should be advised of the change(s) and afforded an opportunity to update their submittals accordingly. The RECO should be aware that depending on the scope of the change, the acquisition may have to start from square one again.

All determinations relating to changes in requirements, including waivers, will be documented in the negotiator report.

Where communications do not result in any changes in the FAA's requirements, the FAA is not required to request or accept offeror revisions. Technical leveling and auctioning techniques are prohibited.

4.2.3.7 Utilities Revised 4/2012

Like the acquisition of leasehold interests, the utility acquisition process must be conducted following the best commercial business practices in a fair and equitable manner, while complying with all applicable regulations. The utility guidance (4.1) addresses the acquisition, management and termination of utility services, i.e., electric, gas, water, refuse, and sewer in support of facilities constructed, operated, and maintained by the Federal Aviation Administration. The RECO/CO must follow the guidance. All new construction and major renovation projects at FAA facilities will include installation of advanced meters for electricity in accordance with the Energy Policy Act of 2005 (EPAct 2005), and gas and steam advanced meters in accordance with the Energy Independence and Security Act (EISA) 2007, Section 434(b). Advanced meters should also be considered to collect water use data for each water supply source (e.g., domestic potable water and non-potable water, including reclaimed water and rainwater). For existing FAA facilities where no major renovations are anticipated, advanced meters must be implemented where cost-effective and practicable. Cost-effectiveness must be determined on a 10-year simple payback, assuming annual savings of at least 2% or higher depending on the use of the metered data to implement energy savings and other cost savings measures.

4.2.3.8 Condemnation Revised 1/2008

Eminent domain proceedings, in accordance with established procedures, should be initiated when negotiations have reached an impasse and a satisfactory conclusion to the procurement cannot be

reached. Generally, protracted negotiations are not in the best interests of either party. Legal participation is required on all condemnations. The Department of Justice rules on condemnation and requirements for title must be followed when real property is acquired through purchase or condemnation proceedings. (1.1.19 Condemnation Guidance)

4.2.3.9 Award Revised 4/2008

Competitive awards must be made to the offeror whose offer best met FAA's requirements/needs as defined in the SFO and/or proposed lease contract. The offer selected should provide the best value to the United States, cost and other factors considered. The RECO must document the objective criteria supporting the rational basis, i.e. the [Negotiator Report](#) and placed in the real estate lease contract file.

If award is made non-competitively, the reason(s) for a RECO's determination to make a single-source award must be documented in the negotiator report.

Any changes or additions, such as the addition of a requirement from the using service/requiring office, resulting from communications with the proposed awardees, or that are stated in the selected offer, should be made to the proposed contract prior to award. If such change is deemed outside the original requirements of the SFO and/or proposed lease contract, the RECO must start the procurement again. (Put that in above, too.)

Legal review of leases is required where there is deviation from the standard lease clauses. Legal review is required on all purchases of real property. The RECO is required to send three original copies of the proposed contract(s) to the property owner or provider for signature and returned for final execution by the FAA. The RECO should follow the guidance on recording leases and titles as mentioned in the land guidance 1.0.

After execution of the lease, the RECO must ensure that all information is entered into the real property database, i.e. REMS. RETS.

4.2.3.9.1 Terms of Leases Revised 4/2009

The RECO is authorized to enter into firm-term leases within established restrictions (2.4.4 Lease Terms). The RECO may award firm term leases not to exceed 20 years under the authority of 49 U.S.C. 40110(c)(1) without violating the Antideficiency Act. If a lease requires the payment of rent above a nominal amount—e.g., \$1.00 per year--a new lease must be procured when the existing lease contract has been in effect for 20 years.

The RECO must complete the Lease Evaluation Form as early as possible in order to determine whether the lease will be a Capital Lease in accordance with OMB Circular A-11, Appendix B. If determined to be a capital lease (3.1.5 Capitalization Guidance), the RECO will notify the Logistics Service Area Manager and must ensure with the program office that FAA has the adequate funding for the requirement.

4.2.3.10 Alterations and Improvements Revised 10/2012

All alterations and/or improvements, including Tenant Improvements (TIs), are required by FAA to make the leased premises acceptable for FAA occupancy, and post occupancy alterations and improvements must be based upon technical requirements, business practices, or programmatic needs. TIs are the finishes and fixtures that typically take space from the "shell" condition to a finished, usable condition.

Initial alterations, improvements, related items, and services associated with real property will be considered awarded through competition when included within the scope/requirements of the original procurement.

Alterations and improvements to an existing facility may be considered within the scope of a lease, if they are necessary to the operation of the facility as contemplated by the original procurement. In a leased facility, to minimize potential liabilities and restoration costs as well as other claims, the lessor should be considered the first choice for the provision of alterations. In making the determination of whether a lessor's proposed costs to make alterations and improvements to a leased facility are reasonable, the RECO should use a 1.) formal appraisal, 2.) construction data, 3.) cost to build publications, and/or 4.) an independent government cost estimate. If FAA makes the alterations, the lessor should be requested to waive any claims for restoration of the premises.

Any construction to leased or owned facilities must comply with the requirements of the Davis-Bacon Act. The Davis Bacon Act (40 U.S.C. 276a-278a-7) provides that contracts of \$2,000 or more to which the U.S. or the District of Columbia are a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the U.S. must include provisions that no laborer or mechanic employed directly upon the site of the work will receive less than the prevailing wage rates as determined by Department of Labor.

If the lessor is unwilling or unable to provide the means to complete the improvements, and the property is leased for no or nominal consideration, then the FAA may exercise its authority under 49 USC Section 44502(a)(5) to make the required improvements.

A discussion of issues applicable to TIs, including the TI allowance often offered in the commercial market to encourage long term leases, is set forth in Real Estate Guidance 2.3.3, Tenant Improvements for Space Acquisition.

4.2.3.11 Inspection and Acceptance Revised 1/2008

The RECO, or designated representative, should arrange to inspect the real property sufficiently in advance of the occupancy date to ensure it is acceptable and ready for use. Substantial, non-punch list deficiencies that would impact FAA use and/or occupancy of the real property in support of its mission must be corrected before acceptance of the real property, related service, or utility service.

4.2.3.12 Disposal of Real Property Revised 1/2008

There are two sources of authority under which the FAA may dispose of real property:

1. Pursuant to 49 USC 40110, the FAA has the authority to dispose of airport and airway property and technical equipment used for the special purposes of the FAA for adequate compensation.
2. The second source of authority is through the General Services Administration (GSA) and is governed by the Federal Property Administrative Services Act of 1949, as amended. This Act authorizes the Administrator of GSA to dispose of real property.

Also the RECO must include an explanation of how the acquisition or disposal action complies with FAA established policy and guidance in the negotiator report.

4.2.3.13 Documentation Revised 1/2008

Sufficient documentation must be developed that explains and justifies the procurement action taken. These documents should be retained in the applicable real estate acquisition file. The RECOs must use a 6 part folder system for all their acquisition files. The RECO must use the land, space and/or utility checklist when putting together the documentation for the lease file.

4.2.3.13.1 Accountability Added 1/2008

Real Estate Managers and/or their designees are to ensure that adequate records are maintained for all FAA owned, leased, and utilized real property. Managers and team leads are responsible for the accuracy and quality of the work of the RECO and should review the lease document files to ensure compliance with AMS. Further the real estate managers should ensure the real estate employees are trained in accordance with the real estate competencies and curriculum.

4.2.3.13.2 REMS Revised 1/2010

All real property assets must be recorded in Real Estate Management System (REMS) in accordance with the [REMS User Guide](#) (FAA only). Land and space ownership must be recorded in REMS after the title passes to the Federal Government. Land, structure and space leases must be recorded in REMS after the lease is fully executed. Other real estate assets (i.e. structures) purchased by procurement contracting officers must be recorded in REMS after completion of the Joint Acceptance and Inspection (JAI), as part of the regular close out process.

The program office with management responsibility that authorizes a change of location of a structure must notify the Real Estate Contracting Officer (RECO) with the changed location information. The RECO will make the change in REMS following notification by the program office. Logistics

personnel must ensure accurate and complete real property asset data entry into REMS. All lines of business must assist logistics personnel in the annual inventory to validate required data elements in accordance with Federal Real Property Council (FRPC) and the DOT Asset Management Plan (AMP).

Lease Scanning in REMS:

As of July 1, 2007, all new and renewal lease documents must be scanned at the point of origin (i.e., region-level, etc.) once the lease has been activated. The lease must be uploaded to the REMS server, and attached to the respective lease number. The lease document will be available for viewing from REMS screens. See Real Estate Guidance 3.1.7.1 for scanning instructions.

4.2.3.14 Miscellaneous Provisions Revised 1/2008

4.2.3.14.1 Disclosure of Information Added 1/2008

Source selection information and proceedings must not be discussed outside the service organization. The Source Selection Officer (SSO) must determine the extent to which source selection information is disclosed and must execute a Certificate of Nondisclosure as appropriate.

4.2.3.14.2 Procurement Integrity Act Revised 10/2014 10/2018

FAA is subject, with modifications as described in ~~the Procurement Toolbox~~ [AMS Guidance with FAA-specific language](#), to the Procurement Integrity Act (41 U.S.C. §§ 2101-2107).

4.2.3.14.3 Organizational Conflicts of Interest Added 1/2008

The policy of the FAA is to avoid awarding contracts to contractors who have unacceptable organizational conflicts of interest.

The FAA will resolve organizational conflict of interest issues on a case-by-case basis; and when necessary to further the interests of the agency, will waive or mitigate the conflict at its discretion.

4.2.3.14.4 Conflict of Interest Added 1/2008

Any service organization or Office of Dispute Resolution (ODRA) member who is a Federal employee that has a real or apparent conflict of interest must withdraw from participation in the procurement process when required by law (18 U.S.C. 208) or regulation (5 CFR Part 2635). Non-Federal service organization or ODRA members are held to the same standards in order to sustain the integrity of the procurement process.

4.2.3.14.5 Electronic Commerce in Contracting Revised 1/2008

FAA may, to the extent practicable and cost effective, use electronic commerce procedures and processes, including acceptance of electronic signatures, to conduct and administer procurement actions. The Electronic Signatures in Global and National Commerce Act (E-SIGN) provides an equivalency between legally-required written records and the same information in electronic form.

4.2.3.14.6 Disaster or Emergency Preparedness and Response Added 8/2009

When an health-related emergency occurs and is declared by the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC) or other authorized Federal, state or local government official, the FAA Real Estate Contracting Officer (RECO) is authorized to acquire additional cleaning supplies or services in our leased facilities. For further information, please see Section 2.4.14, Appendix O: Disaster or Emergency Janitorial Services.

4.2.3.15 Conveyance Added 1/2012

Conveyance by transfer agreement of FAA real property may be practical in situations where transfer of ownership is in the best interests of the government, such as to facilitate airport improvements or to satisfy contract obligations. Conveyance is a real estate transaction subject to the requirements of FAA Order 1050.19B, Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions. Buildings and structures being considered for conveyance must be also screened by the appropriate FAA environmental and safety professionals for any environmental or safety issues that may require mitigation prior to transfer.

4.2.4 Housing Policy Added 10/2011

The purpose of the FAA Housing program is to provide housing for FAA employees supporting the National Airspace System (NAS) who are working in remotely located areas where commercial housing is not available. The guidance follows the mandate in OMB Circular A-45 and must be followed for the acquisition, management and disposal of FAA owned or leased housing facilities. These provisions are applicable to all Lines of Businesses (LOB) and organizational elements having a requirement for and using FAA housing quarters.

4.2.5 Real Estate Certification and Warrant Requirements Revised 7/2013

FAA requirements specify using a competency-based model to provide structure and logic for learning development for acquisitions professions to make reasonable, justified decisions to accomplish agency goals. FAA's mission-critical real property transactions are highly complex and challenging and require a skilled and knowledgeable workforce. Consequently, the FAA developed an acquisition career development program for many series, including the Real Estate Contracting Officers/Specialists (RECO/S).

Therefore, unless otherwise prohibited by existing law or regulation, or an existing collective bargaining agreement, all RECO/S must meet the training and experience requirements set forth in AMS Policy Section 5, Acquisition Career Program, to qualify for certification. Warrant level qualifications and designations are related directly to RECO/S certification. For more information, please see Section 6.1, Real Estate Career Development. Attaining a given level of certification or warrant does not, in and of itself, qualify an employee for promotion or selection to a position.