

Date: July 6, 2022

From: Associate Executive Director, Office of Real Property (003C7)

Subj: Office of Construction and Facilities Management Real Property Policy Memorandum 2022-08: Rescission Notice: OCFM RPPM 2021-06 Clarification Regarding GSA Leasing Alert LA-21-03 Temporary Class Justification (VIEWS 7662536)

To: All VA Leasing Professionals

1. The purpose of this memorandum is to rescind Office of Construction and Facilities Management Real Property Policy Memorandum (OCFM RPPM) 2021-06: Clarification Regarding GSA Leasing Alert LA-21-03 Temporary Class Deviation, issued on August 19, 2021 (see attached).

2. The deviation implemented by OCFM RPPM 2021-06 was replaced with a deviation limited to lease procurements using GSA's Automated Advanced Acquisition Platform (AAP), which VA does not use. Therefore, VA lease procurements utilizing Lowest Price Technically Acceptable (LPTA) source selection procedures must comply with the requirements outlined in FAR 15.101-2(c) on a project specific basis and ensure the lease file is documented accordingly.

3. To be consistent with VA policies on updating directives and handbooks, CFM ORP issued policies and procedures are subject to renewal every five years. Policies and procedures will be updated whenever substantive changes are needed, even if this precedes the five-year renewal requirement. CFM ORP issued policies are located on the VA intranet at <https://vaww.cfm.va.gov/real/> along with other real property policies and guidance.

4. In the event policy or other guidance issued by any other VA organization pertaining to real property lease acquisitions conflicts with policy or guidance issued by Office of Real Property (ORP), ORP policy/guidance shall control.

5. Please direct questions regarding this policy to the Director, ORP Real Property Policy and Programs, via email VACO003C7APolicyandProgramsTeam@va.gov.

John D. Thomas

Attachment

Date: August 19, 2021

From: Associate Executive Director, Office of Real Property (003C7)

Subj: Office of Construction and Facilities Management Real Property Policy Memorandum 2021-06: Clarification Regarding GSA Leasing Alert LA-21-03 Temporary Class Justification (VIEWS 5484781)

To: All VA Leasing Professionals

1. The purpose of this memorandum is to provide official clarification to VA leasing professionals regarding GSA's Leasing Alert (LA) LA-21-03 and attachment, "Temporary Class Justification CD-2021-08 – Lowest Price Technically Acceptable Source Selection Process for Certain Lease Acquisitions", issued by GSA's Office of Leasing on March 30, 2021. This Temporary Class Justification will expire March 23, 2022.
2. Leasing Alert LA-21-03 and its attachment CD-2021-08 provide limited authority to use Lowest Price Technically Acceptable (LPTA) source selection procedures pursuant to FAR 15.101-2 updates, and require the Lease Contracting Officer (LCO) to document the file describing the circumstances justifying the use of the LPTA source selection process.
3. Leasing Alert LA-21-03 and its attachment CD-2021-08 (the temporary class justification) are mandatory and applicable to GSA and activities delegated by GSA to other Federal agencies. The temporary class justification applies to all competitive RLPs (issued on or after March 24, 2021) except for:
 - a. New construction lease projects above the prospectus threshold.
 - b. The highest total contract value prospectus lease acquisition in each region for each prospectus program year.
4. As an agency using GSA's delegated leasing authority, VA leasing officials are required to take one of the following actions for lease procurements utilizing LPTA:
 - a. For VA RLP's meeting the above exception criteria in 3.a. or 3.b. issued on or after March 24, 2021, the HCA must approve a separate individual justification.
 - b. For VA RLP's that do not meet the above exception criteria in 3.a. or 3.b. issued on or after March 24, 2021, the class justification applies when utilizing the LPTA approach. A copy of the class justification must be placed in the file along with documentation within the AP that the procurement meets the criteria/falls within

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Subj: Office of Construction and Facilities Management Real Property Policy
Memorandum 2021-06: Clarification Regarding GSA Leasing Alert LA-21-03 Temporary
Class Justification (VIEWS 5484781)

the scope and applicability outlined in the class justification. The temporary class justification also includes additional lease file documentation requirements already mandated by existing VA policies and therefore, should already be included in the file (refer to section 5b of CD-2021-08 for additional information).

- c. VA RLP's utilizing LPTA issued on or after February 16, 2021, but prior to March 24, 2021, require a separate individual justification (based on the timing of the FAR case publication and the issuance of the LA).

5. In addition to the above actions, VA leasing professionals shall place a copy of this memorandum in the lease file along with LA-21-03 and the temporary class justification CD-2021-08 attached hereto.

6. Because VA medical and specialty care facilities are mission-driven in location and requirements, the LPTA procurement methodology is not always ideal for use in those projects. LPTA is best used for non-medical office space, warehouse space, and other space types that do not directly provide services to Veterans. Best value source selection procedures (tradeoff process), with technical merit approximately equal to price, is the preferred procurement method for leases with mission-related requirements. Notwithstanding the above, neither the class justification nor this policy memo dictates procurement strategies or replaces the judgment of the LCO. There is no prohibition against LCO's utilizing either best value (tradeoff) or LPTA source selection process, provided the LCO has determined the selected process is in the best interest of the Government.

7. In the event any policies or other guidance for leased facilities or facility lease acquisitions are issued by any other VA organization and conflict with policy or guidance issued by ORP, ORP's policy/guidance shall control.

8. If you have any questions, please contact Brandi Stockstill, Director, Real Property Policy and Programs, 202-329-6538, or Brandilyne.Stockstill@va.gov.

Scott P. MacRae
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MacRae 1740501
Date: 2021.08.19 15:44:58
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Scott MacRae
Acting


Attachments



GSA Public Buildings Service

March 30, 2021

MEMORANDUM FOR: REGIONAL COMMISSIONERS, PBS
REGIONAL LEASING DIRECTORS
REGIONAL LEASE ACQUISITION OFFICERS

FROM: JOHN D. THOMAS 
ACTING ASSISTANT COMMISSIONER FOR OFFICE OF
LEASING – PR

SUBJECT: LEASING ALERT (LA-21-03) Temporary Class Justification
CD-2021-08 - Lowest Price Technically Acceptable Source
Selection Process for Certain Lease Acquisitions

1. **Purpose.** This Leasing Alert disseminates a temporary class justification CD-2021-08, issued by GSA's Senior Procurement Executive (SPE), authorizing the use of Lowest Price Technically Acceptable (LPTA) source selection procedures as the default strategy for nearly all competitive lease procurements except as outlined under the "Instructions and Procedures" (part 6) below. This class justification was requested by the Office of Leasing (OL) in response to changes in FAR 15.101-2, effective as of February 16, 2021, limiting the use of LPTA source selection procedures on most procurements unless certain criteria are met. As these criteria apply to nearly all lease procurements, the Office of Leasing (OL) sought and obtained this class justification from the SPE. **Note that the class justification is temporary and is only effective for one year.** The Office of Acquisition Policy (MV) will determine the need for continuation or revision of this class justification pending OL's reporting of results, progress, lessons learned, and challenges to MV.

2. **Background.**

- a. Section 880(a) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (NDAA) states that *"It shall be the policy of the United States Government to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs in the source selection"*

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process.” Section 880(b) outlined the situations in which use of LPTA was appropriate and required the Federal Acquisition Regulation (FAR) to be revised to reflect this new policy.

- b. FAR Case 2018-016 “Lowest Price Technically Acceptable Source Selection Process” implementing Section 880 was issued as a final rule on January 14, 2021, with an effective date of February 16, 2021. As a result, [FAR 15.101-2](#) permits the use of LPTA only when all of the following six (6) criteria are met:
 - i. [1] The agency can comprehensively and clearly describe the minimum requirements in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;
 - ii. [2] The agency would realize no, or minimal, value from a proposal that exceeds the minimum technical or performance requirements;
 - iii. [3] The agency believes the technical proposals will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror’s proposal versus a competing proposal;
 - iv. [4] The agency has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit to the agency;
 - v. [5] The agency determined that the lowest price reflects the total cost, including operation and support, of the product(s) or service(s) being acquired; and;
 - vi. [6] The contracting officer documents the contract file describing the circumstances that justify the use of the lowest price technically acceptable source selection process.
- c. As nearly all lease procurements meet all the criteria outlined under FAR 15.102-2 [1] through [5] above, OL, with the approval of PBS’ Head of Contracting Activity (HCA), submitted a request to the SPE for a class justification to comply with [6] above. This in turn will allow LPTA source selection procedures to be the default strategy for a vast majority of PBS’s lease solicitations. On March 24, 2021, GSA’s SPE issued a temporary class justification CD-2021-08 (Attachment 1), to satisfy the requirements under FAR 15.101-2 (6) for certain lease transactions.

3. **Effective Date.** This Leasing Alert and its attachment are effective for all RLPs issued on or after March 24, 2021 and is only effective through March 23, 2022, unless modified, canceled, or reissued.

4. **Applicability.** This Leasing Alert and its attachment are mandatory and apply to all GSA real property leasing activities and activities delegated by GSA to other Federal agencies.
5. **Cancellation.** None.
6. **Instructions and Procedures.** Additional guidance concerning use of this class justification is as follows:
 - a. The class justification applies to all competitive RLPs issued on or after March 24, 2021, except for the following:
 - i. New construction lease projects¹ above the prospectus threshold.
 - ii. The highest total contract value prospectus lease acquisition in each region for each prospectus program year².
 - b. When utilizing the LPTA approach, leasing specialists must document in the acquisition plan that the procurement meets the criteria outlined in the class deviation and must also place a copy of this class justification in the lease file.
 - c. For projects that fall under the two exceptions above, the LCO must utilize Best Value Tradeoff (BVTO) source selection procedures, unless he/she determines that the criteria outlined under FAR 15.101-2(c) apply, in which case the following additional steps apply:
 - i. The HCA must approve a separate individual justification as being appropriate and consistent with the requirements of FAR 15.101-2.
 - ii. Unless waived, an Acquisition Review Board is required per GSAM 504.7104.
 - d. Notwithstanding the class justification authorizing the use of LPTA as the default strategy for lease procurements, there is no prohibition against LCOs utilizing BVTO where he/she has determined that doing so is in the best interest of the Government. The purpose of this class justification is to reduce unnecessary paperwork and file documentation. It is not meant to dictate procurement strategies or replace the judgment of the LCO.

¹ New construction lease projects are defined as a leasing solution to a Government space requirement where the Government mandates that only new building construction will be able to meet the Government's technical requirements.

² For prospectus-level RLPs issued prior to February 16, 2021 using LPTA source selection procedures, no additional documentation is required.

- e. For RLPs utilizing LPTA procedures issued on or after February 16, 2021 but prior to March 24, 2021, LCOs must place a separate standalone determination in the file addressing the requirements under FAR 15.101-2.

Attachment:

- **Attachment 1, Class Justification CD-2021-08**

COVER PAGE FOR ATTACHMENT 1



GSA Office of Governmentwide Policy

3/24/2021

Class Justification CD-2021-08

MEMORANDUM FOR GSA CONTRACTING ACTIVITIES

FROM:

JEFFREY A. KOSES
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

DocuSigned by:

Jeffrey Koses

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SUBJECT:

Class Justification - Lowest Price Technically
Acceptable Source Selection Process for Certain Lease
Acquisitions

- Purpose.** This memorandum approves a temporary class justification providing Public Buildings Service (PBS) limited authority to use the lowest price technically acceptable (LPTA) source selection process for certain types of lease actions. The class justification is pursuant to the Federal Acquisition Regulation (FAR) 15.101-2(c)(6) requirement that the contracting officer (CO) documents the contract file describing the circumstances that justify the use of the LPTA source selection process.
- Background.** Section 880 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232) limits the use of LPTA source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs. Effective February 16, 2021, based on the publication of Federal Acquisition Regulation (FAR) Case 2018-016, FAR 15.101-2 requires the CO to document the file to justify the use of LPTA.

The PBS Office of Leasing requested a class justification to allow for the continued use of LPTA source selection criteria for those acquisitions meeting specific criteria following the FAR 15.101-2 update. Over the next five years, more than 4,000 of the 8,000 leases (representing more than 100 million square feet) will require a long term replacement lease. Most of these are expected to be competitive actions; Leasing of space

tends to be very commoditized making use of a LPTA approach reasonable in most circumstances.

This class justification satisfies the requirements of FAR 15.101-2 for the vast majority of GSA lease procurements and streamlines the process for efficiently awarding these contracts. It also highlights those areas which merit additional attention.

3. **Authority.** This class justification is issued in accordance with GSAM 501.404 and 501.707. This action is requested by PBS in accordance with FAR 1.703, 1.704 and 15.101-2.
4. **Applicability.** This class justification applies to all competitive lease procurements except for—
 - a. New construction lease projects¹ above the prospectus threshold² that will be competed.
 - b. The highest total contract value prospectus lease acquisition in each region for each prospectus program year that will be competed.
5. **Requirements.** Applicable lease procurements are subject to the following requirements.
 - a. General. PBS Office of Leasing (PR) will report results, progress, lessons learned, and challenges to the Office of Acquisition Policy (MV) within one year, to determine the need for the continuation or revision of the class justification.
 - b. Contract File. For each proposed lease contracting action taken pursuant to this class justification, as a reminder, contracting officers should ensure the contract file includes documentation of the below details. These details could be captured in the acquisition plan, price negotiation memorandum, or other acquisition document.
 - i. Determination that the requirement falls within the scope and applicability of this class justification (see FAR 15.101-2).
 - ii. Determination that the proposed contractor is responsible for performing the work (see GSAM 570.108, and FAR 9.104).

¹ New construction lease projects are defined as a leasing solution to a Government space requirement where the Government mandates that only new building construction will be able to meet the Government's technical requirements.

² GSA Annual Prospectus Thresholds:

<https://www.gsa.gov/real-estate/design-construction/gsa-annual-prospectus-thresholds>

- iii. Determination that the proposed contract pricing is fair and reasonable consistent with market conditions and the Government's requirements (see GSAM 570.203-4(d), GSAM 570.306(b), and FAR 15.404-1).
 - c. Reviews. For the lease procurement exceptions noted in Section 4a and 4b, if LPTA is to be used, the HCA must approve a separate individual justification as being appropriate and consistent with the requirements of FAR 15.101-2.
 - d. For the lease procurement exceptions noted in Section 4a and 4b, unless waived, an Acquisition Review Board is required per GSAM 504.7104.
6. **Effective Date.** This class justification is effective immediately and remains in effect for one year.
7. **Point of Contact.** Questions regarding this class justification may be directed to Marten Wallace at GSARPolicy@gsa.gov.

Attachment PBS Office of Leasing Business Case Request for Class Justification for Lowest Price Technically Acceptable Source Selection Process for Certain Lease Acquisitions