

Process for Lease Actions Funded by the American Recovery and Reinvestment Act (ARRA)

1. Solicitation for Offers (SFO). While a final decision has not been made on the allocation of ARRA funds for swing space leases, we recognize that GSA regions require immediate guidance to provide adequate time to acquire swing space leases that meet the schedules of ARRA modernization projects. To successfully meet these project schedules, GSA is directing GSA realty professionals and support contractors to include the SFO paragraphs listed below when developing SFOs to meet swing space lease needs for ARRA projects. Since the following SFO paragraphs are required only for ARRA-funded swing space lease projects, GSA realty professionals must amend the SFOs to delete these paragraphs if ARRA funding is not used or is not made available for a specific lease project. Once a final decision on ARRA fund allocation has been made, GSA will notify the regional offices so that GSA realty professionals can take appropriate action. The following SFO paragraphs are required for any new leasing activity funded in whole or in part with Recovery Act funds:
 - a. Whistleblower Protections Under The American Recovery And Reinvestment Act.
 - b. American Recovery And Reinvestment Act—Reporting Requirements.
 - c. Audit And Records—Negotiation.
 - d. Labor Standards Under The American Recovery And Reinvestment Act.
2. Acquisition Planning.
 - a. Acquisition approach. It is recommended that GSA lease contracting officers utilize the lowest price technically acceptable acquisition approach when acquiring swing space under this RSL, since it is more expedient in meeting the project schedules under the ARRA.
 - b. Utilize full and open competition to the maximum extent practical. The President's Memorandum of March 4, 2009, on "Government Contracting" stated that it is the policy of the Federal Government that executive agencies shall not engage in noncompetitive contracts except in those circumstances where their use can be fully justified and where appropriate safeguards are in place to protect the taxpayer.

- b. The e-mail subject line for all acquisition plans applicable under this RSL should be noted as “Recovery Acquisition Plan – Title”. As a reminder, all acquisition plans must be forwarded to the Office of the Chief Acquisition Officer at acquisitionplans@gsa.gov within 7 days of approval.

3. Publicizing Contract Actions

- a. Publicizing Pre-award notices (includes “sources sought” and “requests for expressions of interest” notices). All pre-award postings on Fedbizopps.gov for Recovery Act procurements must include the following:
 - 1. Notices must include the word “Recovery” as the first word in the Title field in FBO preceding the actual title.
 - 2. Users must select the “yes” radio button for the “Is this a Recovery and Reinvestment Act action” field on the “Notice Details” form.
 - 3. A project description that is clear and unambiguous to support public transparency and understanding of the procurement.
 - 4. In addition, notices of proposed contract actions are required for orders of \$25,000 or more funded in whole or in part by the Recovery Act. Unlike the traditional presolicitation notices, these order notices will be posted in FBO “For Information Purposes Only”.
 - 5. A clear and unambiguous description of the leases funded by the Recovery Act and a rationale when the contract action, including modifications and orders, is not both fixed-price and competitively awarded. Additionally, GSA issued Acquisition Letter V-09-01, entitled “American Recovery and Reinvestment Act Implementation,” which provides sample language that all Contracting Officer’s must use in their FBO postings.
- b. Synopsis of lease awards. Contracting officers must synopsise in FedBizOpps.gov awards exceeding \$25,000 total contract value. However, the dollar threshold is not a prohibition against publicizing an award of a smaller amount when publicizing would be advantageous to industry or to the Government. Contracting Officer must associate the award notice, where applicable, to the Presolicitation notice in order for the award notice to be identified as a “Recovery Act Action.”
- c. Federal Procurement Data System (FPDS).

1. Lease acquisitions. For all lease contracts funded by PBS ARRA money, the FPDS Coordinator in each region must enter the following Treasury Account Symbol (TAS) in the Description of Requirement field of the FPDS report: TAS::47 4543::TAS.

2. Reimbursable space alterations. For reimbursable space alterations funded by the ARRA, FPDS coordinators must enter the appropriate Funding Agency TAS number in the Description of Requirement field of the FPDS report. The Funding agency TAS will be provided by the Budget Analyst. This number can also be found in Block 13G of the updated RWA Form 2957. Also, for reimbursable space alterations funded by Recovery Act, FPDS regional coordinators you must enter the applicable Funding Agency ID (and Funding Office ID, if known) in the respective field on the FPDS report. Coordinators should use the search button (...) to locate the applicable agency codes.

NOTE: If an award is funded by more than one ARRA source, coordinators must report in FPDS the predominant TAS symbol based on dollars obligated. In addition, in order to accommodate this new requirement, the description field in FPDS is now editable to allow FPDS regional coordinators to include the TAS number for awards and modifications. This is a change to FPDS as regional coordinators will now receive a blank description field when launching into FPDS. FPDS regional coordinators must enter the TAS number followed by the description for all ARRA FPDS data entry.

4. Lessor Reporting. Lessors receiving ARRA funded awards will also be required to submit ARRA data as described in the clause, entitled “American Recovery and Reinvestment Act—Reporting Requirements.” Lessors will submit this data directly to a new website www.FederalReporting.gov. This website is currently not in operation, but is scheduled to be ready in the near future.

5. Funding.
 - a. Fund Code for ARRA. A new fund code has been established for the Public Building Service, and will be used specifically for obligation of PBS funds under the ARRA. This new code is 442. A separate Treasury Account Symbol (TAS) has also been established for fund 442. The TAS used for 442 is 47 4543. In addition, the following six different budget activities have been established for use in fund 442 only:
 - PG01 Federal Buildings and Courthouses
 - PG02 Land Ports of Entry (LPOE)

- PG03 High-Performance Green Buildings (Modernization & Limited Scope)
- PG04 High-Performance Green Buildings (R&A Small Projects)
- PG05 Building Operations
- PG06 Rental of Space

For lease actions using ARRA funds, the budget activity is “PG06 Rental of Space.”

- b. Reprogramming of Funds. GSA is not authorized to reprogram and use funding from other ARRA project funds to meet the Government’s swing space lease needs under the ARRA. Likewise, if ARRA funds are not sufficient to cover swing space lease needs, GSA must use Budget Activity 53 funds.
- c. Mixed Funding. GSA lease contracting officers must unilaterally deactivate the “American Recovery And Reinvestment Act-Reporting Requirements” SFO paragraph if GSA spends all \$108 million under the ARRA and GSA begins paying the lessors rent with Budget Activity 53 funds. To the extent that there is a premium on the SFO reporting requirements in this RSL, lease contracting officers are encouraged to identify this amount in the lease contract prior to lease award so that an equitable adjustment in the rental rate can be made once the SFO paragraph is deleted.
- d. Obligation of funds. The ARRA requires that swing space lease funding be obligated by September 30, 2010 and be spent by September 30, 2015. For GSA’s lease program, this means that GSA lease contracting officers must award all leases using ARRA funding by September 30, 2010.
- e. Please note that GSA may be forced to acquire swing space in connection with the ARRA using Budget Activity (BA) 53 funds; in such a case, the requirements of this RSL do not apply.