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RSL-2009-01

MEMORANDUM FOR ASSISTANT REGIONAL ADMINISTRATORS, PBS
REGIONAL REALTY SERVICES OFFICERS

FROM: SAMUEL J. MORRIS, III 
ASSISTANT COMMISSIONER FOR OFFICE OF REAL
ESTATE ACQUISITION - PR

SUBJECT: Posting of Justifications for Other Than Full and Open
Competitions on the Federal Business Opportunities
("FedBizOpps") Website

1. Purpose. This Realty Services Letter (RSL) establishes policy on the posting of justifications for other than full and open competition (OTFO) on the Federal Business Opportunities website after the award of lease contracts, except for information exempt from public disclosure.
2. Background.
 - a. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule to implement Section 844 of the National Defense Authorization Act for Fiscal Year 2008 "Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts" (FY 08 NDAA). Section 844 of the FY08 NDAA stipulates the requirements regarding the public availability of justification and approval documents after the award of Federal contracts, except for information exempt from public disclosure.
 - b. The provisions of Section 844 require the head of an Executive agency to make certain justification and approval documents relating to the use of noncompetitive procedures in contracting available within 14 days of contract award on the website of an agency and through a governmentwide website selected by the Administrator for Federal Procurement Policy.
 - c. In the case of noncompetitive contracts awarded on the basis of unusual and compelling urgency, the documents must be posted within 30 days of contract award. The Competition in Contracting Act (Public Law 98-369) already requires that such justification and approval documents be made available for public inspection, subject to the exemptions from public disclosures provided in the Freedom of Information Act (5 U.S.C. 552).

3. Effective Date/Expiration Date. This RSL applies to all leases and supplemental lease agreements awarded from an OTFO on or after February 17, 2009. This RSL and instructions are effective immediately and will expire 5 years after the date of issuance unless modified, canceled, or reissued earlier.
4. Cancellation. Not applicable.
5. Applicability. This RSL applies to all real property leasing activities.
6. Instructions/Procedures.
 - a. Except for paragraph b. of this section, GSA lease contracting officers must publish Justifications for Other than Full and Open Competition on the Federal Business Opportunities (“FedBizOpps”) website (www.fedbizopps.gov) within 14 days after lease award. FedBizOpps website’s Frequently Asked Questions (FAQs) webpage provides guidance on how to search for documents and upload OTFO documents (which are referred to the Fedbizopps website as “Justification and Approval” or “J&A”) on the FedBizOpps website.
 - b. In the case of lease awards permitted on the basis of unusual and compelling urgency, GSA lease contracting officers must publish Justifications for Other than Full and Open Competition on the Federal Business Opportunities website (www.fedbizopps.gov) within 30 days after lease award.
 - c. GSA lease contracting officers, in consultation with the Regional Counsel's Office, must screen all justifications for contractor proprietary data and remove all such data, references, and citations as are necessary to protect the proprietary data in accordance with the Freedom of Information Act, before publication. In addition, GSA lease contracting officers must also be guided by the exemptions to disclosure of information contained in the Freedom of Information Act (5 U.S.C. 552) and the prohibitions against disclosure in determining whether other data should be removed.
 - d. Finally, since this amendment also requires that Federal agencies make available these justifications on their websites and enables them to accomplish this by linking their website to the FedBizOpps website, the PBS Office of Real Estate Acquisition is working with the Office of the Chief Acquisition Officer to provide instructions on GSA’s public website (www.gsa.gov) on how to find these justifications. Further instructions will be forthcoming.