



**LANGLEY
POLICY
DIRECTIVE**

**Directive: LAPD 2030.1
Effective Date: February 19, 2009
Expiration Date: February 19, 2014**

Responsible Office: Office of the Chief Counsel

Subject: Requirements for Legal Review of Acquisition Matters

1. POLICY

Acquisition and other contractual matters that have legal implications are to be reviewed by the Office of the Chief Counsel (OCC). This policy centralizes requirements for legal reviews and establishes threshold levels for legal review where flexibility to do so is allowed.

2. APPLICABILITY

This policy is applicable to all civil servants at Langley Research Center.

3. AUTHORITY

- a. Federal Acquisition Regulation (FAR)
- b. NASA FAR Supplement (NFS)

4. APPLICABLE DOCUMENTS

NPD 5101.1, "Requirements of Legal Review of Procurement Matters."

5. RESPONSIBILITIES

- a. Office of Procurement (OP). In any case where OP personnel believe legal advice should be sought, regardless of thresholds, they are encouraged to seek legal review and consultation. The following review levels are required.
 - (1) The following matters with an estimated value of \$750,000 or more.
 - (a) Solicitations (excluding FAR Part 13.5 solicitations).
 - (b) Awards (excluding FAR Part 13.5 awards).
 - (c) Modifications (excluding modifications dealing solely with incremental funding). (Value of modification is arrived at by adding any deductive value to any additive value, i.e. deleting \$500,000 of work and adding \$500,000 of work in a modification is a \$1,000,000 modification.)

- (d) Task orders or delivery orders under multiple award type contracts.
- (e) Competitive Range Determinations.
- (f) Source Selection Plans and Source Selection Statements.
- (2) Justifications for Other than Full and Open Competition with an estimated value of \$550,000 or more.
- (3) Task orders and delivery orders with an estimated value of \$2,000,000 or more under other than multiple award contracts.
- (4) The following matters are to receive legal review whenever they occur:
 - (a) Procurement related submissions to Congress, Congressional committees, individual Senators or Representatives, the Comptroller General, The Justice Department, Federal or State Agencies (excepting NASA), Courts, or the Armed Services Board of Contract Appeals.
 - (b) Any termination of a contract.
 - (c) Any deviations or special clauses.
 - (d) Any action where the FAR or NFS requires legal review. For example:
 - (i) Ratifications of unauthorized commitments.
 - (ii) Non-responsibility determinations based on integrity or business ethics.
 - (iii) Any Determination and Findings (D&Fs) to include class D&Fs.
 - (iv) Personal conflict of interest, organizational conflict of interest, or improper business practice issues, to include any suspensions or debarment actions
 - (v) Proposed rejection or acceptance of a mistake in bid.
 - (vi) Release of liens.
 - (vii) Acceptability of individual sureties.
 - (viii) Tax issues.
 - (ix) Issues of unclear title to government property title under progress payments or performance based payments.
 - (x) Responses to protests to the Contracting Officer, NASA, or the GAO.

- (xi) Any claim to the Contracting Officer that cannot be settled by mutual agreement.
 - (xii) Personal services contracts or in cases where the contracting officer is unsure if the action is a personal services contract.
 - (xiii) Utility services being obtained on a competitive basis.
 - (xiv) Bankruptcy of a contractor.
 - (xv) Change of name of a contractor or novation of a contract.
 - (xvi) Loss or destruction of government property.
 - (xvii) Any request for Extraordinary Contractual Actions, including any requests for indemnification.
- (5) The following meetings are to have legal participation:
- (a) Solicitation Review Boards (participation does not remove the requirement for a solicitation review).
 - (b) Competitive range meetings (participation does not remove the requirement for a competitive range determination review).
 - (c) Pre-negotiation Review Committees.
- (6) Issues regarding patents, copyrights, or other intellectual property issues are to be coordinated with the Intellectual Property Law Team of OCC
- b. OCC. As the contracting function involves the preparation and negotiation of legal instruments, the OCC works closely with the OP, providing legal advice and assistance whenever practicable during every phase of the contracting process. This assistance includes:
- (1) Participation in acquisition strategy meetings and source selection presentations.
 - (2) Assisting in preparing, negotiating, and interpreting contracts, grants, cooperative agreements, and similar instruments, including statements of work and specifications.
 - (3) Advising program and procurement officials in the administration of contracts, grants, cooperative agreements, and similar instruments.
 - (4) Serving in an ex officio capacity to all Source Evaluation Boards.
 - (5) Providing advice whenever requested by any element of OP. When a written opinion is required or desired a written request for such opinion should be submitted.

(6) Legal review times.

(a) OCC will attempt to accomplish all standard reviews within five (5) business days from the date of receipt (actions received after 2 p.m. are not considered received until the next business day). Actual review time will vary depending on the complexity of the issues presented and workload. OCC will work closely with OP to prioritize the work and process actions in less than five (5) business days. Requests for expedited review [two (2) business days or less] must have a branch head or higher endorsement for the expedited review.

(b) If a legal review cannot be performed in five (5) business days [two (2) business days for expedited actions], the responsible attorney will coordinate with the OP point of contact to set a mutually acceptable due date.

(7) Response to Legal Review.

(a) The legal review shall identify with specificity the legal issue(s) that must be resolved. It may also include recommendations based on business judgment.

(b) Contracting Officers shall document their response to each legal review comment provided by the Office of Chief Counsel. These responses will be attached to the legal review or included in that portion of the contract file containing the legal review. If a contracting officer is unable to resolve a specific legal issue identified within the legal review in a manner recommended within the legal review, the contracting officer will coordinate with the attorney who issued the legal review to evaluate alternative satisfactory approaches to resolving the issue.

6. DELEGATION OF AUTHORITY

None

7. MEASUREMENTS/VERIFICATION

None

8. CANCELLATION

LAPD 2030.1 dated August 14, 2002.

Original signed on file

Lesa B. Roe
Director

Distribution:

Approved for public release via the Langley Management System; distribution is unlimited.