The Coalition for Government Procurement

September 16, 2013

General Services Administration
Regulatory Secretariat (MVCB)
1800 F Street N.W., 2nd Floor
Washington, DC 20405
ATTN: Hada Flowers

Re: ''Notice-MVC–2013–02; Leasing versus Renting''

Ms. Flowers:

The Coalition for Government Procurement (The Coalition) is pleased to respond to your Request for Information (RFI) to help determine if there is a distinction between leasing and renting that should be addressed by the Federal Acquisition Regulation (FAR).

The Coalition is a non-profit association of firms selling commercial services and products to the Federal Government. Our members collectively account for approximately 70% of the sales generated through the GSA Multiple Award Schedules (MAS) program and about half of the commercial item solutions purchased annually by the Federal Government. Coalition members include small, medium and large business concerns. The Coalition is proud to have worked with Government officials over the past 30 years towards the mutual goal of common sense acquisition.

The RFI states

> "Some have suggested that there is no legal distinction between leasing and renting per the Uniform Commercial Code and that any distinctions in practice are irrelevant to FAR subpart 7.4, which is seeking the most cost effective method."

Our member feedback suggests that lease and rental agreements have different terms and financial considerations. Even if there is no technical legal distinction there are business drivers that should be considered when deciding whether to lease or rent.

The exact terms of rental and lease agreements vary from company to company. Generally, however, rental agreements have shorter terms and can be cancelled more easily when the customer no longer has a need for the item. Because the customer does not have to commit to a long term and has greater flexibility in terminating the agreement, rental payments generally exceed those that can be obtained under long term lease agreements.

The Coalition supports modifying FAR 4.702 to include rental as an additional acquisition method. Our members report circumstances where agencies want the lower pricing of a leasing arrangement, but the ability to terminate the deal as if it were a rental agreement. Early termination is a significant financial risk to contractors that lease equipment to the federal government. Attached is a copy of a Leasing White Paper prepared by the Coalition which addresses this topic. The risk of early terminations has the potential to become more frequent as agencies face reductions in appropriations due to sequestration and budget cuts. Member companies report cases where due to budget concerns agencies have declined to exercise options needed to fulfill the terms of long term leases. These early terminations impose cost contractors which are ultimately borne by the federal customer. Additional language in the FAR can help reduce these instances by educating acquisition officials on the difference between rental and lease.

Greater information about the acquisition types can help agencies make better choices upfront about acquisition methodology. Rental rather than leasing should be considered when term and cancellation flexibility is required. Agencies should consider whether they can realistically commit to the provisions of a lease agreement overtime. In some circumstances rental can be more cost effective for the government than leasing. Prices may be higher in the initial period however the total acquisition costs may be lower in light of the longer term commitment and cost that may result from a cancellation for convenience.

The Coalition appreciates the opportunity to comment on this RFI. If there are any questions, please contact me at (202) 331-0975 or rwaldron@thecgp.org.

Sincerely,

Roger Waldron
President