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MEMORANDUM

To: General Services Administration (GSA), Office of the Administrator;
Federal Acquisition Service

From: American Clean Skies Foundation (ACSF)

Re: Leveraging the Federal Strategic Sourcing Initiative (FSSI) for the Third Generation Domestic Delivery Service (DDS3) To Advance Federal Purchasing, Environmental and Energy Security Goals

Date: June 24, 2013

This memo supplements ACSF's letter of this date to GSA regarding the solicitation for a DDS3 transportation services contract for 2014 -2018. The letter asks GSA to use this FSSI to ensure significant cross-agency cost savings, energy security and environmental benefits so that the DDS3 contract advances Executive Orders 13514 and 12898,¹ as well as the GSA's own Green Purchasing Plan.²

More specifically, ACSF urges GSA to include the following four elements in the DDS3 procurement:

1. Establish a preference for vendor commitments on fuel efficiency, emissions, and alternative fuels in year one of the contract and in each of the potential four years of the renewal term;
2. Set targets for each year of the contract for reduced emissions, lower petroleum use, and increased use of alternative fuels;
3. Require annual reporting by the vendor of relevant environmental and fuel measures; and
4. State a preference (or renewal expectancy) in deciding on annual contract extensions based on the vendor's performance against its commitments and the targets, and offer contract incentives for superior environmental performance.

¹ Executive Order 13514 "Federal Leadership in Environmental, Energy, and Economic Performance" (2009); Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (1994); "Memorandum of Understanding on Environmental Justice and Executive Order 12898" (2011). See also The White House, "Blueprint for a Secure Energy Future" (2011); Energy Independence and Security Act of 2007; Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management" (2007).

² See GSA "Order," January 7, 2011 available at http://www.gsa.gov/graphics/fas/GSA_Green_Purchasing_Plan.pdf

This memo explains in greater detail how these elements can be implemented into the solicitation process and the expected benefits. It also suggests language for the solicitation.

A. Federal Petroleum and Emission Reduction Mandates and Programs

The proposed contract preferences, targets and reporting measures are all supported by existing statutes, Executive Orders and the GSA's own Green Purchasing and Sustainability Plans.

Executive Order 13514 is of particular relevance. It requires federal agencies to report and reduce their own greenhouse gas (GHG) emissions, as well as those of their contractors (Scope 3 emissions). The E.O. defines Scope 3 as "greenhouse gas emissions from sources not owned or directly controlled by a Federal agency but related to agency activities such as vendor supply chains, delivery services...." The GSA Sustainability Plan sets a target of reducing Scope 3 emissions 14.6% by FY2020 as compared to FY2008.³

Pursuant to E.O. 13514, in May 2011, the Federal Acquisition Regulation (FAR), the government's purchasing rulebook, was amended to reflect a "sustainable acquisition policy."⁴ Under the FAR, the objective of "best value" – which is expected to govern the DDS3 solicitation --is broad: "Best value must be viewed from a broad perspective and is achieved by balancing the many competing interests in the System. The result is a system which works better and costs less." 48 C.F.R. Sec. 1.102-1(b).

The sustainable acquisition policy in the FAR, 48 C.F.R. Sec. 23.103(a)(1)-(6), also highlights the interests of energy efficiency and environmental protection in "best value" acquisitions. It generally requires that the agencies "shall advance sustainable acquisition by ensuring that 95 percent of new contract actions for the supply of products and for the acquisition of services (including construction) require that the products are - (1) Energy-efficient (ENERGY STAR® or Federal Energy Management Program (FEMP)-designated); ... (4) Environmentally preferable (e.g., EPEAT-registered, or non-toxic or less toxic alternatives)" The DDS3 solicitation and contract must accord with FAR and should promote services using energy-efficient (fuel-efficient and alternative fuels) as well as EPA SmartWay registered carriers (a type of environmentally-preferable service).

³ http://www.gsa.gov/portal/mediaId/162943/fileName/GSA_FY2012_Sustainability_Plan at 9, 10, 14, 15.

⁴ The FAR defines "sustainable acquisition" as "acquiring goods and services in order to create and maintain conditions (1) [u]nder which humans and nature can exist in productive harmony, and (2) [t]hat permit fulfilling the social, economic, and other requirements of present and future generations." 48 C.F.R. Sec. 2.101. See also Kate M. Manuel and L. Elaine Halchin, Congressional Research Service, "Environmental Considerations in Federal Procurement: An Overview of the Legal Authorities and Their Implementation," (January 7, 2013).

Since 2009, the GSA has also adopted its own Green Purchasing Plan. As one of the purchasing entities covered by the new contract (DDS3 will include transportation services provided to GSA itself), under Section 1.3.3, GSA “must consider to the maximum extent practicable a preference for environmentally sustainable products or services when developing best value evaluation factors.” See note 2 supra.

Recognizing the benefits of alternative (non-petroleum) fuels for energy security and the environment, the Energy Independence and Security Act of 2007 and Executive Order 13423 (“Strengthening Federal Environmental, Energy and Transportation Management”) require that agencies increase total non-petroleum-based fuel consumption by 10% annually compared to the FY2005 baseline.

The obligation of federal agencies to reduce their direct and indirect emissions and petroleum use is supported by several programs at the Environmental Protection Agency (EPA) and the Department of Energy (DOE). EPA’s SmartWay Transport Partners Program helps transportation carriers, logistics providers and shippers track and reduce GHG emissions and petroleum use.⁵ SmartWay accounting tools and methods provide a widely-adopted industry standard for benchmarking key indicators of environmental and energy performance as well as reducing costs.

GSA, along with over 3,000 other SmartWay Partners, has committed to improve its performance annually by reducing the emissions and petroleum associated with its fleet and, more importantly in terms of scale of operations, its transport services suppliers. For example, GSA recently applied a preference for EPA SmartWay Transport Partners in the Request for Offers to transport contractors for shipments originating at Western Distribution Center and Eastern Distribution Center for freight-all-kinds traffic (Aug. 6, 2012).⁶ As detailed below, for the DDS3 solicitation, GSA should not only require contractors to be SmartWay Partners but should state a preference based on the contractor’s annual contract commitments with respect to reduced GHG emissions, lower petroleum use, and increased use of alternative fuels.

Among several DOE programs promoting cleaner transportation services, the Federal Energy Management Program (FEMP) assists federal agencies with implementing and managing fuel-efficient and alternative-fuel vehicles.⁷ The DOE’s Clean Cities Program in over 100 communities “advances the nation’s economic, environmental, and energy security by supporting local actions to reduce petroleum consumption in transportation.”⁸

⁵ See <http://www.epa.gov/smartway/>

⁶ www.gsa.gov/graphics/fas/20122014WDC-EDC_CoverLetter.pdf.

⁷ DOE, “Federal Fleet Program Overview”

https://federalfleets.energy.gov/sites/default/files/static_page_docs/fedfleet_overview.pdf.

⁸ DOE, “Building Partnerships to Reduce Petroleum Use in Transportation”

<http://www1.eere.energy.gov/cleancities/>.

In addition, the DOE's National Clean Fleets Partnership, launched in 2011, helps the nation's largest commercial fleets speed the adoption of alternative fuels, electric vehicles, and fuel economy improvements.⁹ Significantly, at the time the Partnership was announced, President Obama said:

"Just to give you a sense of the kind of difference this partnership can make, every single year millions of commercial vehicles travel America's roads and highways, burning nearly 4 billion gallons of fuel along the way -- 4 billion gallons. With this partnership, we'll help make sure those vehicles are energy-efficient so we can cut the amount of pollution they pump into the air, cut the amount of gasoline they need to fill a tank, cut the amounts of oil America imports from abroad.

Noting that the government "... can lead by example. That creates a market...", the President also issued a challenge:

"If you're a business that needs to transport goods, I'm challenging you to replace your old fleet with a clean energy fleet that's not only good for your bottom line, but good for our economy, good for our country, and good for our planet."¹⁰

These words are of special relevance here given the government's significant reliance on the trucks and vans used by its preferred vendors of transportation services, and the purchasing power GSA exercises for those services under DDS3 and similar contracts.

B. The DDS3 Contract Should Build On The Environmental and Energy Programs of Federal Agencies, Domestic Package Delivery Vendors and Major Shippers

The likely bidders on DDS3 have already established environmental reporting and performance programs that provide a platform for implementing the proposals described above. These programs demonstrate the capability of domestic delivery service vendors to meet increasing environmental performance targets and underscore the magnitude of the financial and other benefits which can be achieved by carrying forward such programs during the DDS3 contract period.

⁹ DOE, "DOE Brings Together Private-Sector Leaders to Reduce Petroleum Use"

http://energy.gov/sites/prod/files/National%20Clean%20Fleets%20Partnership%20Fact%20Sheet%20and%20Progress%20Update_March%202012.pdf.

¹⁰ Remarks by the President on the Clean Fleet Partnership in Landover, Maryland. April 1, 2011, <http://www.whitehouse.gov/the-press-office/2011/04/01/remarks-president-clean-fleet-partnership-landover-maryland>

The following examples show that the 2% annual reductions in GHG emissions and petroleum use mandated by E.O. 13514, or more, could be implemented as reasonable targets for the DDS3 vendor. Furthermore, this procurement could reasonably support the E.O. 13423 standard of 10% annual increases in alternative-fuel use, or more. GSA should insist that DDS3 advance the level of improvements that the agency is applying to its direct and other indirect emissions and energy use.¹¹

- **UPS.** UPS's 2011 Sustainability Report¹² shows these measures, achievements and goals:
 - Carbon dioxide-equivalent emissions (normalized) per 1,000 U.S. domestic packages reduced by 4.9% in the 3 years from 2008 - 2011
 - Gallons of fuel per U.S. domestic ground package reduced by 8.7% in the 3 years from 2008 – 2011
 - Goals include¹³
 - Reducing carbon dioxide emissions per available ton mile from UPS Airlines 20 percent from 2005 baseline
 - Reducing fine particulate emissions per vehicle by 75% between 2012 and 2020
 - Reducing nitrogen oxides emissions per vehicle by 60% between 2012 and 2020
 - Doubling the alternative fuel and advanced technology miles driven between 2010 and 2017 (from 200 million to 400 million globally)
- **FedEx.** FedEx 2012 Global Citizenship Goals & Progress Report¹⁴ sketches high levels of improvements in environmental and energy efficiency performance:
 - FedEx Express vehicle fuel efficiency
 - 6% improvement in FY12
 - 22% improvement from FY05 through FY12
 - Aircraft carbon dioxide emissions intensity
 - 4% improvement in FY12
 - 18% improvement from FY05 through FY12
 - Goals

¹¹ As reflected in GSA's FY2012 Sustainability Plan, GSA targets (a) a 28.6% reduction in its Scope 1 and 2 GHG emissions for FY2020 compared to FY2008; (b) a 14.6% reduction in its Scope 3 GHG emissions for FY2020 compared to FY2008; (c) a 20% reduction in its fleet petroleum use by FY2015 and 30% by FY2020 compared to FY2005; and (d) a 159% increase in alternative-fuel use by FY2015 compared to FY2005.

http://www.gsa.gov/portal/mediaId/162943/fileName/GSA_FY2012_Sustainability_Plan at 9, 10, 14, 15.

¹² http://www.community.ups.com/community/Static%20Files/sustainability/2011_UPS_CSR_KPI.pdf

¹³ http://responsibility.ups.com/community/Static%20Files/sustainability/2011_UPS_CSR_Report.pdf at 76, 79, 139.

¹⁴ http://about.van.fedex.com/assets/_pdf/2012_FedEx_Global_Citizenship_Goals_Progress.pdf Environment & Efficiency at 3.

- Increase FedEx Express vehicle fuel efficiency 30% by 2020 compared to FY05
 - Reduce aircraft emissions intensity 30% by 2020 compared to FY05
 - Obtain 30% of jet fuel from alternative fuels by 2030
- **DHL.** DHL targets improving by 30% the carbon efficiency of its operations by 2020 compared to a 2007 baseline. Its operations in 2012 showed an improvement of 16% compared to 2007.¹⁵

The United States Postal Service (USPS) has also demonstrated the potential for ongoing environmental progress in connection with the provision of a transport delivery service. The USPS 2012 Strategic Sustainability Performance Plan¹⁶ includes these targets and indicators of progress through 2011:

- GHG emissions
 - Target 20% reduction in 2020 compared to 2008 baseline
 - Achieved 7.4% reduction in 2011 compared to 2008
- Contract transportation petroleum fuel use
 - Target 20% reduction by 2020 compared to 2008 baseline
 - Achieved 2.9% reduction in 2011 compared to 2008
- Postal vehicle petroleum fuel use
 - Target 20% reduction by 2020 compared to 2008 baseline
 - Achieved 8.3% increase in 2011 compared to 2008
- Postal vehicle alternative fuel use
 - Target 100% increase by 2020 compared to 2005 baseline
 - Achieved 128% increase in 2011 compared to 2005

C. Private Sector Domestic Trucking Programs Show That Environmental Targets Can Deliver Cost Savings From The Use of Alternative Fuels.

Alternative fuels offer large savings in operating and lifecycle costs for many shipments. According to the most recent data shown in the DOE's Alternative Fuels Data Center covering March 29 – April 12, 2013, the national average prices for fuels were: (a) diesel \$3.99/gallon; (b) gasoline \$3.59/gallon; (c) compressed natural gas (CNG) \$2.10/gasoline gallon equivalent; (d) propane \$2.73/gallon; (e) ethanol (E85) \$3.30/gallon; and (f) electricity \$0.117/kWh.¹⁷

¹⁵ Deutsche Post DHL, "2012 Corporate Responsibility Report" at 63. http://www.dpdhl.com/content/dam/dpdhl/responsibility/cr_report_2012/05environmental-protection-gogreen.pdf.

¹⁶ http://origin-about.usps.com/what-we-are-doing/green/pdf/00_2012_USPS_SSPP.pdf at 6.

¹⁷ DOE, "Alternative Fuel Price Report" <http://www.afdc.energy.gov/fuels/prices.html>.

While the vehicle acquisition cost for trucks fueled by natural gas is higher than for diesel trucks, the lower fuel and maintenance costs of natural gas lead to total operating and lifecycle savings for many applications. For example, Golden Eagle Distributors, Inc., a beverage distributor in Arizona, operates a fleet of 75 delivery power units and 200 small service vehicles.¹⁸ It currently operates 32 CNG trucks via a turnkey lease. For Golden Eagle's Tucson delivery fleet, the annual vehicle leasing costs are \$414,924 for diesel and \$496,572 for CNG. However, with this fleet using 90,000 gallons per year, the annual fuel costs are \$358,020 for diesel and \$216,000 for CNG. Additionally, vehicle maintenance costs are \$12,500 less for the CNG vehicles. In total, CNG saves \$72,872 annually for this fleet.

Another carrier, Paper Transport, Inc., operates 35 CNG trucks on a corridor between Green Bay, Wisconsin, and Chicago. Compared to diesel trucks, each CNG vehicle yields annual fuel savings of about \$50,000.¹⁹ According to a leading industry consultant, replacing 35 diesel trucks with liquefied natural gas (LNG) vehicles on a trucking carrier's run for the U.S. Postal Service between Los Angeles and Sacramento (100,000 miles per truck annually) would be expected to yield these impacts: (a) incremental cost for trucks \$2.275 million; (b) annual fuel cost savings \$1.16 million; (c) simple payback in less than 2 years; and (d) annually reduced emissions of 1,971 million tons of GHG, 43 tons of nitrogen oxides, and 0.9 tons of particulate matter.²⁰

Finally, two major corporations are implementing strong programs to make cost-effective increases for their trucking in fuel efficiency and use of natural gas fuels.

- PepsiCo (seventh largest fleet in North America) targets 50% improvement in fuel efficiency from 2008 through 2020²¹
- Owens-Corning targets converting 50% of its network miles to natural gas fuels by 2020, with doubling of the number of miles moved by natural gas fuels each year from 2013 through 2020²²

¹⁸ Presentation by Bill Osteen (Senior Vice President of Business Operations, Golden Eagle Distributors, Inc.), Natural Gas Vehicle Fleet & Infrastructure Summit, Atlanta, GA, June 6, 2013.

¹⁹ Savings reflect a \$2.00 differential in price per diesel gallon equivalent and 180,000 miles per year per truck. Presentation by Erik Neandross (Gladstein Neandross Associates), ACSF Oil Shift Workshop, Washington, D.C., June 10, 2013 <http://www.cleanskies.org/events/2013/06/oil-shift-workshop>

²⁰ Id.

²¹ Presentation by Mike O'Connell (Frito-Lay, Senior Director of Fleet Operations), ACSF Oil Shift Workshop, Washington, D.C., June 10, 2013 <http://www.cleanskies.org/events/2013/06/oil-shift-workshop>

²² Presentation by David Uncapher (Owens-Corning, Sourcing and Logistics Operations Leader), ACSF Oil Shift Workshop, Washington, D.C., June 10, 2013 <http://www.cleanskies.org/events/2013/06/oil-shift-workshop>

D. Indicative Solicitation and Contract Language.

To ensure that GSA receives the benefits of the proposals advanced here, and that prospective vendors are fully apprised of GSA's requirements, we suggest language for the Statement of Objectives (SOO), Request for Proposals (RFP), and the DDS3 contract:

"Executive Order 13514 requires each agency to establish a Scope 3 GHG reduction target for FY2020. Executive Order 13423 requires that agencies increase total non-petroleum-based fuel consumption by 10% annually compared to the FY2005 baseline.

Contractor shall be an EPA SmartWay Transport Partner. Contractor will be required to report its fuel use and emissions using accounting tools and methods consistent with the SmartWay program.

Contractor also must set targets on GHG emissions, petroleum and alternative fuels consumption in year one of the contract and in each of the potential four years of the renewal term. Contractor is encouraged to state targets for ground and non-ground transportation services on a disaggregated basis. Contractor will be required to submit an annual report regarding its performance with respect to these targets. A contractor may propose pricing or other incentives for superior environmental and fuel performance."

In addition, the Evaluation Criteria in the SOO should include the following:

"The Contractor's environmental and energy efficiency performance and commitments on emissions reduction and fuel use shall be given significant weight in reviewing the Contractor's response. The Contractor's annual performance with respect to the foregoing metrics shall be given significant weight in deciding on annual contract extensions."