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June 24, 2013

Daniel M. Tangherlini
Administrator (Acting)
General Services Administration
1800 F Street, NW, Room 6459
Washington, D.C. 20405

Re: Advancing Executive Orders 13514 and 12898 in the Domestic Delivery
Service (DDS) Generation 3 Contract

Dear Mr. Tangherlini:

The current procurement for a third generation, government-wide contract for express and ground shipping of small packages, known as Domestic Delivery Services (DDS3), offers a prime opportunity for GSA to promote the environmental and energy security goals of Executive Orders 13514 and 12898.¹ Pursuant to these Orders, as well as the GSA's own Green Purchasing Plan,² ACSF believes that the DDS3 solicitation must include a preference for cleaner transportation services, and the contract should incorporate annual targets for reducing emissions, cutting petroleum use, and increasing the use of non-petroleum (alternative) fuels.³

The DDS3 procurement is likely to involve expenditures of \$100 - \$350 million annually (covering 15 - 35 million packages) for up to five years (2014-2018).⁴ Accordingly, wise use of

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

³ The American Clean Skies Foundation (ACSF) is an independent, not-for-profit organization seeking to advance America's energy independence and a cleaner, low-carbon environment through expended use of natural gas, renewables and efficiency.

⁴ See GSA, "Request For Information/Delivery Services, Domestic Delivery Service Recompete (DDS3)" (May 10, 2013) https://www.fbo.gov/?s=opportunity&mode=form&id=7d1f141f3e8280ec81273193a59695c6&tab=core&_cview=0

the government's buying power under DDS3 could significantly expand the deployment of cleaner, fuel-efficient services by the package delivery industry. It could also showcase the ability of the GSA's Federal Strategic Sourcing Initiative (FSSI) to provide cross-agency cost savings and environmental benefits, reducing indirect emissions and petroleum consumption of every agency that opts in to DDS3 based on the cleaner "best value" transportation vehicles and logistics used by the successful DDS3 vendor.

Evolving Federal Procurement Rules

In 2009, the DDS2 solicitation took a step in the right direction by "strongly encouraging" vendors to participate in the EPA's SmartWay Transport Partnership and requiring the contractor to provide a description of the programs in place to improve its environmental performance.⁵ Yet, this selection process did not grant a preference to a vendor with lower emissions and petroleum use; nor did it require the contractor to show annual improvements in its environmental performance or fuel use.

The legal framework has evolved since then and, as a result, the DDS2 solicitation and contract now falls short on major environmental and economic policy grounds. The DDS2 award occurred a few months before issuance of E.O. 13514 in 2009. Since that directive, agencies must adopt strategic sustainability performance plans with multi-year targets for reduced emissions and petroleum use, report their performance annually, and ensure that their vendors are energy efficient and environmentally preferable. This executive order also calls on agencies to incorporate incentives for contractors to reduce greenhouse gas emissions.

In addition, the 2011 inter-agency memorandum on E.O. 12898 commits GSA to addressing the environmental justice impacts from commercial transportation and supporting infrastructure ("goods movement"). That order and memorandum recognize that many of America's most heavily traveled highways are surrounded by minority and low income neighborhoods.

Since 2009, the GSA has also adopted its own Green Purchasing Plan. As one of the purchasing entities covered by the new contract, 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.

These new directives and policies must be reflected in the DDS3 process. The DDS contracting program has already demonstrated the benefits of using FSSI for these services, saving federal agencies hundreds of millions of dollars in shipping costs by leveraging joint

⁵ See GSA, "FSSI – Domestic Delivery Services Generation 2 (DDS2): Statement of Objectives" at 27, 38 (Aug. 2009) available at <http://www.gsa.gov/graphics/fas/BPAwithSOOandIFR.pdf>

procurements.⁶ DDS3 can deliver similar benefits. However, we believe that GSA's obligation to seek "best value" from a DDS3 vendor cannot be met absent ongoing improvements in environmental performance and petroleum use.⁷ This is especially so from a cost standpoint because, when it comes to transport contracts, there is now strong evidence that fuel-efficient and alternative fuel vehicles yield lower operating and lifecycle costs as compared to other vehicles.⁸

Specific Proposals For DDS3

Based on the foregoing, we urge 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.

Additional details on implementing each of these elements in the text of the solicitation, the evaluation factors and contract, together with their rationale, are provided in Attachment 1.

Inclusion of the foregoing terms would make DDS3 a major win for federal agencies as well as for taxpayers, and would ensure that the Administration "leads by example" when it

⁶ See e.g., "Federal Strategic Sourcing Initiative Second Generation Domestic Delivery Services (DDS2), GSA, 2011 Government Transportation Forum, April 20-21, 2011.

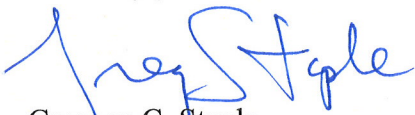
⁷ See "sustainable acquisition policy" amending the FAR in May 2011, 48 C.F.R. Sec. 23.101(a)(1)-(6). See also Kate M. Manuel and L. Elaine Halchin, Congressional Research Service, "Environmental Considerations in Federal Procurement: An Overview of the Legal Authorities and Their Implementation" (January 7, 2013).

⁸ E. Neandross, "The Business Case: Determining Where and When The Integration of Alternative Fuels Makes the Most Sense" (2013) (presented at workshop for federal agencies) http://www.cleanskies.org/wp-content/uploads/2013/05/oilshiftworkshop_neandross.pdf; ACSF, "Oil Shift: The Case for Switching Federal Transportation Spending to Alternative Fuel Vehicles" (2012) http://www.cleanskies.org/wp-content/uploads/2012/08/OilShift_FINAL_File_For_Web-1.pdf

comes to federal energy and environmental policy as President Obama has pledged.⁹ Moreover, these terms will help deliver cleaner services to millions of other package-delivery customers because the successful DDS3 contractor will likely serve the general public with the same package delivery fleet used by the federal government. That will multiply GSA's own actions many fold.

We look forward to reviewing these proposals with you and appropriate DDS3 contract officials at your earliest convenience.

Sincerely yours,



Gregory C. Staple
Chief Executive Officer
American Clean Skies Foundation

Encl.

cc: Adam Neufeld (Acting), Chief of Staff
Anne E. Rung, Senior Advisor to the Administrator and Chief Acquisition Officer
Jiyoung Park, Associate Administrator, Office of Small Business Utilization
John Blanchard, Federal Acquisition Service
Robert C. Smith, DDS3 Lead

⁹ See e.g., "Remarks by the President on the Clean Fleet Partnership in Landover, Maryland," April 1, 2011: "[T]he government can lead by example. That creates a market." <http://www.whitehouse.gov/the-press-office/2011/04/01/remarks-president-clean-fleet-partnership-landover-maryland>