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Emergency Economic Stabilization Act – Pursuing Procurement Opportunities

The U.S. Department of the Treasury (the "Treasury") has announced that it will employ two mechanisms to engage private firms to assist in the implementation of the Emergency Economic Stabilization Act of 2008 (the "Act"). First, the Treasury will exercise its statutory authority to retain "financial agents" to provide services. Second, the Treasury may obtain needed services using procurement contracts under the Federal Acquisition Regulation ("FAR"). The Treasury will determine which of the above methods to employ in engaging private-sector firms under the Act on a case-by-case basis. The attorneys of Locke Lord Bissell & Liddell LLP and the government relations specialists of Locke Lord Strategies are uniquely positioned to address questions and advise clients interested in opportunities presented by the Act, and in pursuing engagements by the Treasury through both mechanisms mentioned above.

Financial Agent Authority

The Treasury may select financial agents under the Act without including set-aside requirements for small, woman- and minority-owned businesses; if these requirements are not included in the request for services, the Treasury will specifically include these groups as part of the selection process. The Treasury's minimum qualification standards for financial agents can be found at the Treasury's website: www.treas.gov. "Financial Agent" selection is not governed by FAR. As a "financial agent", a selected financial institution has a fiduciary duty to the United States, incurring the highest obligations and responsibilities in a business relationship.

Procurement Contracts under the Federal Acquisition Regulation

The Treasury may also enter into contracts with respect to the Act under the FAR. The FAR requires the solicitation of offers from all interest-

ed sources, while maintaining the authority of the Treasury to limit competition for procurements due to circumstances of unusual or compelling urgency. The Treasury anticipates that, as a result of the need for swift implementation of the Act, certain contracts will be awarded without typical full and open competition, and certain procurements may be set aside specifically for small businesses. The Treasury has also stated certain provisions of the FAR may be waived by the Secretary of the Treasury.

Under the Act, the Treasury will be contracting for a variety of services and service providers, with such service providers acting as contractors in a business relationship with the Treasury. The Treasury has indicated that there are three different types of services for which it will seek qualified providers. The descriptions of each of these services are set forth via the links below:

Whole Loan Asset Management Services:
http://www.treas.gov/initiatives/eesa/docs/notice_whole-loan-asset-mgr.pdf

Securities Asset Management Services:
http://www.treas.gov/initiatives/eesa/docs/notice_securities-asset-mgr.pdf

Custodian, Accounting, Auction Management and Other Infrastructure Services:
http://www.treas.gov/initiatives/eesa/docs/notice_custodian-services.pdf

The Firm issued a "Client Alert" on October 8, 2008 regarding the Treasury's processes for selection of financial agents. [Click here](#) to view the client alert.

The Treasury's guidelines for pursuing procurement opportunities can be found using the following link: <http://www.treas.gov/press/releases/reports/smallbusinessparticipation.pdf> and include, but are not limited to:

Offices

Atlanta
Austin
Boston
Chicago
Dallas
Houston
London
Los Angeles
New Orleans
New York
Sacramento
Washington DC

Emergency Economic Stabilization Act – Pursuing Procurement Opportunities
(cont'd.)

1. Registration of a specific firm and contact information on websites such as the Emergency Economic Stabilization Act webpage (www.treasury.gov/initiatives/eesa/), the Central Contractor Registration database (www.ccr.gov), and the General Services Administration Schedules Program webpage (www.gsa.gov);
2. Information on certification as a “small business” can be found on the U.S. Small Business Administration website (www.sba.gov/gcbd);
3. Firms may submit a one-page “capability statement” via electronic format to the Treasury’s Office of Small and Disadvantaged Business Utilization at TreasuryOSDBU@do.treas.gov; and
4. Information on Treasury contracts is posted on the Federal Business Opportunities website (www.fedbizopps.gov) and on the Treasury’s Small Business Program website (www.treasury.gov/osdbu).

The Treasury’s planned engagement of private firms to assist in implementation of the Act provides many opportunities to pursue procurement contracts with the Treasury. The attorneys of Locke Lord Bissell & Liddell LLP and the government relations specialists of Locke Lord Strategies are positioned to address questions and advise clients interested in these opportunities, and offer practical wisdom and trusted advice. Please do not hesitate to contact any of the members of the Troubled Asset Relief Group listed below.

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