



March 24, 2015

Kevin Youel-Page
Deputy Commissioner, Federal Acquisition Service
General Services Administration
1800 F ST NW
Washington, DC 20405

Re: Evergreen Contracts

Dear Kevin:

The Coalition for Government Procurement is pleased to deliver the attached recommendations to streamline the process for considering offers for “Evergreen contracts” approaching the end of their 20-year period.

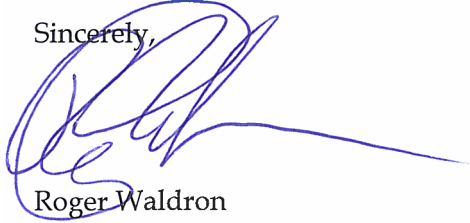
The recommendations were developed by the Coalition’s Evergreen Working Group which includes member companies with contracts across the GSA Schedules program. We note that many of these members firms have IT Schedule 70 contracts, GSA’s largest and most successful schedule. Many IT Schedule 70 contractors are approaching the end of the 20-year contract period. If this matter is not addressed, competition and access to the latest IT commercial products, services and solutions will be unnecessarily limited thereby reducing customer agency opportunities to achieve best value mission support through the GSA Schedules program.

The Coalition for Government Procurement is a non-profit association of approximately 250 firms selling commercial services and products to the Federal Government. Our members, who include small, medium and large businesses, collectively account for approximately half the commercial item solutions purchased annually by the Federal Government. The Coalition is proud to have worked with government officials for more than 35 years towards the mutual goal of common sense acquisition.

By implementing these recommendations, GSA will improve customer agency access to commercial products, services and solutions available under the FSS. Streamlining the evaluation process will also result in better utilization of not only GSA resources but the resources of customer agencies and contractors as well. We are concerned that if GSA does not act to address this matter, contract vehicles like GSA’s Agile Delivery Services BPA and other IT task orders will not benefit from the broadest possible competition to meet customer mission requirements because many successful and innovative IT Schedule 70 contract holders will not be able to participate.

We would be happy to meet with you to discuss these recommendations at your earliest convenience. If there are any questions, please contact me at (202) 331-0975 or rwaldron@thecgp.org.

Sincerely,

A handwritten signature in blue ink, appearing to be 'RWaldron', with a long horizontal flourish extending to the right.

Roger Waldron
President

cc: Jeff Koses, Kay Ely, Tiffany Hixson and Donna Jenkins



Evergreen Contracting: Ensuring Competition, Continuity, and Opportunity for Customer Agencies and Contractors

Objective

The Coalition for Government Procurement makes recommendations to streamline the process for considering offers for contracts that are approaching the end of their 20 year period.

GSA's Federal Supply Schedule (FSS) program is the federal government's largest, most successful commercial item contracting program. One of the pillars of its success is the stability, continuity and opportunity provided by the 20 year contract terms (5 year base with three five year option periods) implemented in the mid-1990's through GSA's "Evergreen" contracting initiative. The goal of "Evergreen" contracting was to increase the efficiency and effectiveness of the FSS program by lengthening the term of FSS contracts. By extending the contract period to 20 years, GSA reduced burdensome and time consuming paperwork, processes and procedures associated with the submission and evaluation of new offers every five years. The long term stability afforded an "Evergreen" 20 year contract term has allowed contractors and customer agencies to focus on competing for and meeting mission specific requirements—without the disruptions in performance and contract administration due to the premature end of the contract term (every five years).

Today, FSS contractors who were awarded "Evergreen" contracts in the 1990's are approaching the end of their contract term. In particular, contractors across IT Schedule 70 and MOBIS, GSA's two largest schedules, are now seeing the end of their current 20 year contracts. Together, these two schedules account for 55% of the GSA schedules program revenue. The IT Schedule alone generated \$14 billion in sales in FY14. At least eleven of the top 25 IT Schedule holders have contracts expiring between 2016 and 2019 which accounts for approximately 20% of GSA's IT Schedule annual revenue.

The end of the 20 year contract term creates the risk of a significant disruption in the availability and access to thousands of commercial products and services through IT Schedule 70 and other schedule contracts. Currently the timeline for the review and award of new offers is significant, approaching nine months or more. The top 25 IT schedule 70 holders are at a significant disadvantage in the submission of a new offer because they have to undergo IG pre-award audits at their last option. This delays their ability to submit an offer for a parallel Schedule contract (by one to two years) because the process does not start until the audit and ensuing negotiations are complete. For many customer agencies this means reduced competition and access to best value commercial products, services and solutions to meet their mission needs as

gaps in contract coverage result in lost opportunities for Schedule contractors to compete. For the American people it means less effective and efficient government operations.

Correspondingly FSS contractors are being excluded from current on-going competitions for BPAs and orders to the extent the remaining contract term does not cover the term of the proposed BPA and/or order. The current situation undermines the FSS program's fundamental mission of providing customer agencies with access to a robust, competitive and dynamic federal market place for commercial products, services and solutions.

The Coalition for Government Procurement (the Coalition) supports GSA's mission to provide best in class government-wide procurement products and services. In particular, the Coalition believes in an open, competitive and innovative FSS program for customer agencies and the American people. Accordingly, the Coalition makes the following recommendations regarding the submission of new offers and the continuation of orders and BPAs that extend beyond the current contract term:

I. Establish a streamlined proposal submission and review process for long time FSS contractors

GSA should establish a streamlined proposal submission and evaluation process for long time FSS contractors. Specifically, a streamlined proposal process should be available to FSS contractors who have been in the program for the initial 20 year contract term and have achieved a specified level of annual sales over the life of the contract. FSS contractors who have had 20 year contracts clearly understand their obligations under the program and have demonstrated a sustained period of success (otherwise the three option periods would not have been exercised). As such, these contractors should not be required to respond to the following solicitation requirements:

- Readiness Assessment
- Financial Responsibility
- Past Performance
- Certifications included in ORCA or SAM

In addition, a streamlined CSP should be established for contractors moving from their current 20 year contract to a new one—as the pricing information is already available to GSA.

GSA should provide written guidance to contracting officers on the streamlined proposal submission and evaluation process (with an abbreviated version) to ensure that the process is implemented consistently across the Schedules program.

This approach is consistent with the Competition in Contracting Act (CICA), the FAR, and the General Services Acquisition Regulation (GSAR). Nothing in statute or regulation prohibits such an approach. Using the suggested approach, all similarly situated companies will be treated in the same manner. FAR 1.102-2(c) (3) provides that “[t]he Government shall exercise discretion, use sound business judgment, and comply with applicable laws and regulations in dealing with contractors and prospective contractors. All contractors and prospective contractors shall be treated fairly and impartially **but need not be treated the same.**” [Emphasis added.]

There is precedent at GSA for such an approach. The MAS Express program was designed to provide a streamlined proposal submission and negotiation process that would facilitate award of an FSS contract within 30 days of submission of a proposal. A streamlined proposal submission and evaluation process for long time FSS contractors would result in efficiencies and reduced work load for both government and industry. For GSA contracting officers, time spent reviewing full renewal responses from existing contractors could be better spent on reviewing offers from new companies and working on contract modifications to bring new technologies, products, and services to the Schedules program.

II. **Issue FSS language addressing continuation of performance of BPAs and orders beyond the basic contract term**

GSA should craft language authorizing bilateral agreements between customer agencies and FSS contractors that would authorize performance of BPAs and/or orders beyond the 20 year contract term. Such an approach is consistent with the FAR, as there are standard FAR clauses that provide for performance of an order beyond the basic term of the contract.

In tandem with this approach or as an alternative, GSA should modify contracts approaching the 20 year limit to provide that the contract number will remain effective for purposes of the period of performance of any pre-existing BPA or order. This modification would also make clear that the contract would not be in effect for the placement of new orders after the basic 20 year period.

This simple, straightforward extension of contract term for purposes of BPAs and orders awarded prior to the end of the contract term provides an efficient, effective and pro-competition solution to a major challenge facing customer agencies and contractors. Nothing in law or regulation precludes such an approach. Moreover, it is consistent with FAR 8.405-3(d)(3) as there would be contract terms and conditions in place to cover the term of the BPA.

Summary

By implementing these recommendations, GSA will improve customer agency access to commercial products, services and solutions available under the FSS. Streamlining the evaluation process will also result in better utilization of not only GSA resources but the resources of customers and contractors as well.