Improving Government Leasing

Achieving Efficiency and Cost Savings

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The Coalition for Government Procurement

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I. EXECUTIVE SUMMARY

The Federal Government uses leasing and rental programs as a means of financing product acquisitions. These programs allow the Government to obtain products, such as office equipment, under a multi-year payment plan when the funds are not available for procurement under outright purchase. In the copier/multi-function device industry, approximately 80 percent of all acquisitions by commercial and Government entities are acquired through leases. In FY2010, leasing and the supporting maintenance for copiers and multi-function devices under the GSA Multiple Award Schedule totaled approximately $261,400,000. As the Government moves towards a Federal Strategic Sourcing Initiative (FSSI) for Managed Print Services, it is especially important to address the current challenges surrounding leasing that contribute to vendor costs.

The General Services Administration offers copier leasing through the Multiple Award Schedules (MAS) program based on plans that are available commercially. While prices offered on MAS Schedule 36 must be based on commercial practices, there are many unique requirements involved in doing business with the Government that can affect a company's administrative costs and pricing models.

The most significant issues involved in Federal leasing for vendors are:

a. Renewals that must be issued on an annual basis.

b. Significant administrative burdens associated with obtaining timely renewals each fiscal year.

c. Complications involved in suspending billing until renewals are issued and then adjusting invoices once renewals are issued under a new order number.

d. Overall vendor costs associated with delayed payment cycles involving:

    i. Pending budget approval.

    ii. Waiting for Federal agencies to issue renewals once budget approval is received.

iii. Issuing invoices (for payments that are already delinquent).

As a result, leasing to the Federal Government has become incredibly burdensome for contractors, especially for those in the copier/multi-function device industry. In 2008, this led many third party finance companies supporting copier leases to leave the Federal market because the associated risks were too high in the midst of a recession. The copier contractors that lost their finance partners were unable to identify companies involved in office product financing that had an interest in Government leasing. Consequently, many of these contractors initiated lease financing on their own despite not offering this service as a part of their commercial business.

The result has been a divergence between commercial and Federal practices for the same products/services, which is at odds with the fundamental premise of the MAS program which is based on the commercial market. Particularly in the current economic environment, this continues to be an issue in the copier industry. Unless prompt payment and reducing inefficiencies in copier leasing and rentals are addressed, this will remain an issue in the upcoming FSSI program for Managed Print Services and prevent the Government from obtaining best value solutions in a cost-effective manner.

The factors that have led to increased costs for contractors have the potential to spill over to the Government through higher prices for leased equipment. To address this growing problem, the Coalition recommends that a number of leasing best practices be adopted government-wide to encourage more efficient, streamlined practices for both the public and private sectors. These recommendations are made at the end of this paper.

II. ADDITIONAL COMPLICATIONS

There are a variety of complicating factors that affect leasing in the Government market.

1. <u>Fiscal Funding/Appropriations</u>

Because Federal leasing is funded through annual appropriations, the procedures involved differ from commercial leases. Commercial firms execute a lease for a specific term (e.g. 48 months) with payments due on a monthly basis for the full term. In contrast, although the Government may have a need to lease equipment for a term of more than a year, the Government initiates a lease by issuing an initial purchase order for only the remaining number of months in the fiscal year. Then for each successive fiscal year, the Government issues a renewal purchase order for the new fiscal year. The manufacturer or finance company is not able to issue monthly invoices until the renewal purchase order is issued. When Congress delays passage of annual appropriations, renewals are also delayed. This can cause a backlog in Federal agency procurement centers, which can further aggravate the issue of delinquent payments.

Given that appropriations through Congress are regularly delayed, delinquency and backlogs have become standard practice in Federal leasing. The Federal Government has existing copier and multifunctional device leases of approximately 75,000 devices. The reissuing of renewal documents (which can be more than 50 pages) and new Purchase Order numbers is a laborious and inefficient process for both the public and private sectors. Renewal of an existing lease – as contemplated when the initial delivery order was issued -- should be implemented simply and expeditiously. Both parties could benefit from streamlining this process.

2. Full Lease Term Obligations

In addition to the costs involved in obtaining monthly payments, different interpretations of the lease term can result in a reduced payment to the contractor. Although a purchase order provides for a specific lease or finance term, Federal agencies often construe the term to begin as of the date of the purchase order ending "X" months after that date. However, from the time a purchase order is issued to the time it takes the contractor to receive and process the transaction, ship the equipment to a servicing branch or dealer location, and arrange for delivery of such equipment, the actual date the equipment is installed can be weeks or months after the date the purchase order was issued.

Not all agencies or purchasing offices accept the lease term as the number of months installed and terminate the lease term based on the purchase order date. This leaves the manufacturer or finance company with a reduced income stream. It also results in the agency ordering a lease for a specific term, and not receiving the full value of the lease when the equipment is not kept for the full term. As such, the Government should consider clarifying the lease terms so that the start date is upon delivery and installation. This would result in both parties receiving the full value of the lease; the Government would benefit from use of the equipment for the full term and vendors would receive payment for the agreed upon lease period (e.g. 48 months).

3. <u>Potential Service Disruptions</u>:

When the stream of payments from agency customers ends, remittances to Service Providers who offer maintenance and supplies services to the Government may also end. A large percentage of the monthly Lease/Rental billings and all monthly Maintenance Contract billings include compensation for Service Providers (who are often small dealers representing the manufacturer). Compensation to the Service Provider is remitted based on payments made by the Government customer. Frequently, as amounts due but not remitted to the Service Providers accumulate based on the issues discussed herein, the cost becomes unbearable for these small businesses. As a result, they may discontinue maintenance and supply services to the end-user. This creates a difficult situation for all parties involved.

4. <u>Early Termination</u>

Unlike commercial customers, Federal agencies may terminate a lease prior to the end of the expiration of the lease term for a number of reasons:

a. Termination for Non-Appropriations

Termination for non-appropriations occurs without penalty. The contractor or finance company is completely at risk of not collecting the anticipated number of monthly payments. Because Federal leases are typically funded through annual appropriations, this is a recurring risk that is very different from the commercial market. Delays in appropriations and reliance on continuing resolutions exacerbate this risk.

b. Termination for Convenience (T for C)

Termination for Convenience applies to a cancellation or default of the lease for any reason other than non-appropriations. Early termination penalties apply based on the present value of remaining payments due. Contractors and finance companies agree with this provision because the Government does not enter into the lease under non-cancelable terms. The Termination Ceiling Charge (TCC) requires the Government to have available the funds needed to repay the outstanding lease balance at any time during the lease term. This is based on accounting guidance issued by the Office of Management and Budget under Circular A-11. In the case of a termination for convenience, a number of issues arise about how the termination should be handled and whether the Government must pay the agreed upon TCC fees.

c. Other

There are other cases in which a Federal customer may decide to cancel a lease such as an agency consolidation or personnel reductions. In these cases, it is not clear whether Non-Appropriations or Termination for Convenience applies or how an agency makes decisions about the copier fleet (such as which manufacturer's equipment will continue to be leased). There are also cases when an agency will terminate based on lack of a bona fide need. Again, it is not clear whether such terminations should be viewed as a Termination for Convenience or a Non-Appropriations cancellation, which determines whether the TCC applies. For the contractor, it is not clear how such a decision would be justified or documented.

In short, the potential for a Federal customer to terminate a lease without any default by the contractor and the associated uncertainty lead to significant contractor risk. Ultimately, this risk may prevent the Government from obtaining lower prices than they would otherwise be offered if vendors had more confidence that Federal leases would extend the full term or that they would be compensated for early termination as is standard in the commercial market. Additional guidance to agencies is needed to clarify that consolidations and reductions should be treated as Termination for Convenience to reduce contractor risk and provide more clarity to both the Government and the vendor community.

5. Inconsistent Invoice Formats

Although contractors and finance companies provide certain standardized information on invoices, many Federal agencies have their own requirements.

Any missing information can cause payment to be further delayed. It would be beneficial to develop a standard list of required data necessary for all personal property lease invoices to the Federal Government to minimize these delays.

III. RECOMMENDATIONS

To improve leasing efficiencies and reduce the cost burdens that have the potential to be passed along to the Government, the Coalition suggests that the Office of Federal Procurement Policy (OFPP) take the following steps:

1. Assign an individual within each federal agency to ensure that purchase orders are issued on time and to address prompt issuance of renewals in the case of a continuing resolution.
2. Issue OFPP guidance on the importance of fulfilling the terms of lease agreements.
3. Provide OFPP guidance regarding how agency consolidations and personnel reductions apply to the cancellation of leases and the application of the TCC.
4. Educate the Federal acquisition community on the unintended consequences associated with delayed payment under the MAS program and/or for commercial items, including a decrease in the number of finance institutions willing to support federal leases and a potential increase in cost over the long term.
5. Streamline payment processing through a standard invoice used government-wide and address the inefficiencies involved in reissuing renewal Purchase orders following budget renewal.

The Coalition for Government Procurement appreciates the opportunity to provide the Office of Federal Procurement Policy with these suggestions to improve the leasing of copiers and multi-function devices. We believe that improving the payment process will enhance efficiencies involved in leasing these products, both under the current MAS program and the Federal Strategic Sourcing Initiative for Managed Print Services.