



October 21, 2014

Tom Sharpe  
Commissioner  
Federal Acquisition Service  
General Services Administration  
1275 First Street, NE  
Washington, DC 20002

Re: UPC and MPN Reporting Requirements for GSA Schedule Holders

Dear Tom:

Thank you again for speaking with The Coalition for Government Procurement following the release of GSA's notification to Schedule holders concerning *Improving Product Number Data Quality on GSA Schedules*. We sincerely appreciate the dialogue and the opportunity to provide written feedback to you as a follow-up to our meeting with our members.

The Coalition for Government Procurement ("the Coalition") is a non-profit association of firms selling commercial services and products to the Federal Government. Our members collectively account for approximately 70% of the sales generated through the GSA Multiple Award Schedules (MAS) program and about half of the commercial item solutions purchased annually by the Federal Government. Coalition members include small, medium and large business concerns. The Coalition is proud to have worked with Government officials over the past 35 years towards the mutual goal of common sense acquisition.

According to GSA's notification, Schedule contractors are to "upload *all* base product contract line items with Universal Product Codes (UPC) and Manufacturer Part Number (MPN) to GSA Advantage via SIP." The stated objective of this effort is to provide customer agencies

with data to better search and compare products and generally improve the quality of GSA's offerings under the Multiple Award Schedules (MAS) program.

Coalition members across numerous industries have significant concerns regarding this new data reporting requirement and the impact on Schedule contractors and customer agencies. First, it is not clear that MPN and UPC is an effective basis for comparison across a broad array of similar, but not identical products. Second, the requirement to submit UPCs and MPNs for each product on GSA Advantage would constitute a significant cost and administrative burden for Schedule holders. As a result we recommend that GSA notify the public and provide an opportunity to comment prior to establishing such a requirement. Third, UPCs and MPNs are not readily available in all industries covered by the MAS program. Depending on the industry, there may be other data that is more relevant for GSA's purposes. Fourth, it is unclear how the collected data will be used and the impact on pricing if contractors need to cover the costs associated with the new reporting burden.

### **Solicitation of Public Comments**

The government is often required to notify the public and provide the opportunity for public comments on procurement rules and information collection requirements. For example, the Paperwork Reduction Act (PRA) requires the government to publish in the Federal Register and solicit comments about proposed collections of information when it is collected using identical questions or it imposes identical reporting requirements on ten or more persons. 44 U.S.C. §§ 3502(3)(A)(i), 3506(c)(2)(A). Given the number of contractors being required to provide UPCs and MPNs for products on GSA Advantage, the Coalition believes that GSA should go through the rulemaking process and provide the opportunity for public comments before establishing this new requirement.

### **Applicability of UPCs and MPN**

The Coalition appreciates GSA's efforts to buy smarter and customer agencies' increasing interest in performance information. To do so efficiently and effectively, we suggest that any requested data be commercially available, that the government first utilize information that it already has, and that the government clearly communicate how any required data will be used. In the case of UPCs, GSA's notice recognized that UPCs are not available for all products. MPNs may also not be available in all industries covered by the Schedules program. As a result

UPCs and MPNs may not be a viable means of identifying all products offered through the MAS program. GSA should reach out to contractors on an industry by industry basis to determine what product number data is used in the commercial market to identify products in each industry. Identifying what data is commercially available would reduce the burdens on Schedule contractors and the associated costs—costs that are inevitably passed on to Federal customers in the form of higher prices. We also request that GSA explain to industry how the government plans to use the requested information. To date, we are not aware of any formal efforts by GSA to have these discussions with Schedule holders.

Contractors from multiple industries have indicated that they are not able to comply with GSA’s requirement for product number data. In particular, contractors under Furniture Schedule 71, IT Schedule 70 and Hardware Superstore Schedule 51V have explained that UPCs are not a reliable way to identify products that they offer in the Federal market. We would like to share some of the concerns from these industries as examples. However, it is important to note that concerns with the requirement are common across the Schedules program and not limited to the industries listed below.

| Industry                             | Comments  |
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| <p><b>Information Technology</b></p> | <ul style="list-style-type: none"> <li>• UPCs are bar code labels for off the shelf products. The majority of products offered on GSA Schedule are configured products for agency customers and therefore do not have UPCs.</li> <li>• Resellers on GSA Schedules may not be able to get UPCs from OEMs because resellers do not purchase direct from OEMs, but from distributors. OEMs may not be able to comply if UPCs are assigned when they are shipped from the supplier.</li> <li>• UPCs may be assigned after an OEM adds the product to the commercial price list. Waiting for the UPC would delay adding new products to GSA Advantage.</li> <li>• It’s not possible to retroactively assign UPCs to older products already on the CPL.</li> <li>• UPCs must be purchased from a third party company which is costly.</li> <li>• UPCs are not assigned to base products that can be configured.</li> <li>• Assigning the same UPC to a base product which could have different features/configurations due to customer unique requirements could cause confusion and violate the GS1 General Specifications, section 2.1.2.</li> <li>• Concerns about GSA’s MPN definition—there may be differences in the MPN and the contractor’s price list’s version of the MPN. It’s rare but when it occurs it’s primarily due to government</li> </ul> |

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|                         | <p>requirements such as TAA and, custom builds, etc.</p> <ul style="list-style-type: none"> <li>• There may be viable reasons to not include products on the contractor's price list on GSA Advantage- e.g. components from non-designated countries or items that require a consultation prior to order.</li> <li>• Software manufacturers use the same part number for licenses or maintenance of their products, however, the terms of each sale may differ such as: term of the license; term of the maintenance; and cost or price, depending on the sale. The Software manufacturers require the resellers of the software to make the distinction in their system(s) for the sale of their products. In order to accomplish this a reseller handles these issues differently on the MAS contract (as this is how the MAS contract holder sells the products Commercially). A MAS contract holder may create their own part number to distinguish the product, or one may add a prefix or suffix to the manufacturers part number to differentiate the unique requirement of each sale.</li> <li>• GSA Advantage cannot accept the receipt of multiple uses of the same part number. The program rejects the upload and requires the MAS contractor to modify or remove the offending part number.</li> </ul>  |
| <p><b>Furniture</b></p> | <ul style="list-style-type: none"> <li>• It is not uncommon for manufacturers to have tens of thousands of base numbers and <u>millions</u> of individual orderable MPNs (or SKUs as they are called in retail).</li> <li>• Adding "all base product contract line items" to GSA Advantage is not manageable for the customer or industry. Doing so could overburden GSA Advantage due to incredibly large/complex uploads.</li> <li>• Creating this system would likely make finding/comparing items more difficult not easier.</li> <li>• The labor hours of this burden alone would potentially be a barrier preventing industry from seeking or continuing to hold Schedule contracts.</li> <li>• Small businesses that are retailers can have a large number of MPNs (either their own or as resellers). This would be a huge burden for contractors with small labor pool.</li> <li>• Furniture companies that do not sell in the retail market unlikely to have UPCs.</li> <li>• Furniture companies often do not list all Schedule products on GSA Advantage. It would be a monumental task to load and maintain this data due to the volume and type of products and multiple options—as well as product updates, additions, deletions and data updates (finish updates, price changes, etc.)</li> <li>• Inconsistencies in UPC or MPN information/format loaded by multiple contractors will diminish the benefit of this major effort.</li> <li>• Only most popular items that can easily be configured by customer are uploaded to GSA Advantage. As manufacturer, include MPNs for them.</li> </ul> |

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| <b>Hardware</b> | <ul style="list-style-type: none"> <li>• The labor hours of this burden alone would potentially be a barrier preventing industry from seeking or continuing to hold Schedule contracts.</li> <li>• Many MRO distributors do not sell in the retail market and therefore many of their products are unlikely to have UPCs.</li> <li>• Special packaging resulting in unique configurations/quantities of products may not have UPCs since MRO distributors do not operate in a retail environment.</li> <li>• Inconsistencies in UPC or MPN information/format loaded by multiple contractors will diminish the benefit of this major effort.</li> <li>• MRO distributors sell many products that are not available to the retail marketplace (general public). These products typically do not have UPCs.</li> <li>• Possible that the same product packaged for different distributors has different UPCs.</li> <li>• MRO contract holders are distributors, not manufacturer of products, and therefore do not create UPCs. They rely on their suppliers to provide these (if available), and setting up a system or changing existing systems to capture UPCs is burdensome.</li> </ul> |
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### Utilizing Product Number Data for Pricing Comparisons

According to the UPC/MPN notice, GSA intends to use the data to better search and compare products in GSA Advantage. The UPC/MPN can only provide a valid basis for comparing the technical aspects of identical products. The MAS exists in part because there are no government specifications which can provide a valid basis for comparing products that are similar, but not identical. If GSA’s intent is to use this information for pricing comparisons, even with respect to identical items—price alone is incomplete data. The FAR provides guidelines for comparing proposed prices to historical prices paid, for the same or similar items. Notably, FAR 15.404-1(b)(2)(ii)(A)(B) states:

**(A) The prior price must be a valid basis for comparison.** If there has been a significant time lapse between the last acquisition and the present one, if the terms and conditions of the acquisition are significantly different, or if the reasonableness of the prior price is uncertain, then the prior price may not be a valid basis for comparison.

**(B) The prior price must be adjusted to account for materially differing terms and conditions, quantities and market and economic factors.** For similar items, the

contracting officer must also adjust the prior price to account for material differences between the similar item and the item being procured.

The FAR guidance regarding determining a “fair and reasonable” price should inform the collection, management and use of pricing information. As a threshold matter, FAR 15.404-1(b)(2)(i) states that “[n]ormally, adequate price competition establishes a fair and reasonable price.” As such, under the GSA Schedule program, adequate price competition at the task order level for agency specific requirements is sufficient to determine fair and reasonable pricing. Agency specific requirements and commitments at the task order level drive competition and pricing. As a result, it is not clear what role pricing comparisons through GSA Advantage will play.

### **Uploads to GSA Advantage!**

GSA’s notification requires Schedule contractors to upload *all* base product contract line items to GSA Advantage! However, there are cases in which an item would not be included in the contractor’s price list on GSA Advantage. Some examples are, items that only after consultation with the customer are included in configured products, and items where customers have to agree to certain terms prior to ordering. The Coalition asks that GSA recognize that legitimate exceptions exist for uploads to GSA Advantage and specify what exceptions may apply to each industry.

### **Recommendations**

In response to the UPC/MPN notice, the Coalition recommends that GSA:

1. Develop policy on an industry by industry basis.
2. Reach out to the contractor community to identify what product number data is commercially available and relevant to each industry rather than requiring UPCs/MSNs for all base products on Schedule.
3. Communicate to industry how collected data will be used.
4. Follow FAR guidance on determining a “fair and reasonable” price to inform the collection and use of pricing information.
5. Utilize the information the government already has rather than adding a new data reporting burden to the MAS program.

6. Clarify any exceptions that may apply to each industry (e.g. GSA Advantage upload requirements).
7. Notify the public and provide an opportunity for the public to submit comments concerning any efforts to collect new product data information from Schedule contractors in accordance with the Paperwork Reduction Act.

Thank you again for the opportunity to provide feedback on GSA's efforts to collect product identifying data under GSA Schedules. We look forward to continuing the dialogue with you on this important matter. If there are any questions, please contact me at (202) 331-0975 or [rwaldron@thecgp.org](mailto:rwaldron@thecgp.org).

Sincerely,

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

Roger Waldron  
President

cc: Jeff Koses, Senior Procurement Executive, GSA