



April 15, 2022

Dominic Lackey
General Services Administration
1800 F. St., N.W.
Washington, D.C. 20405

RE: Notice ID: 47QSCC22N0007
Commercial Platforms Request for Information (RFI) – 47QSCC22N0007

Dear Mr. Lackey:

The Coalition for Government Procurement (Coalition) appreciates the opportunity to comment on the above-referenced Commercial Platforms Request for Information (RFI), which seeks industry feedback as the Commercial Platforms program looks to expand and broaden industry participation in future program contracts.

By way of background, the Coalition is a non-profit association of firms selling commercial services and products to the Federal Government. Its members collectively account for a significant percentage of the sales generated through GSA contracts, including the Multiple Award Schedule (MAS) program. Coalition members also are responsible for many of the commercial item solutions purchased annually by the Federal Government, and they are comprised of small, medium, and large business concerns. The Coalition is proud to have collaborated with Government officials for over 40 years in promoting the mutual goal of common-sense acquisition.

At the outset, Coalition members generally are supportive of an effective Commercial Platforms Initiative (CPI) and see an expanded program via the follow-on contract as an opportunity to participate in a new channel delivering commercial products that meet customer agency mission requirements. Expansion of the CPI program will enhance the program opportunities for all members, likely leading to increased usage across government. In addition, increased access to the commercial market via an expanded CPI promises to enhance competition, promote innovation, and increase opportunities for Coalition members and commercial firms generally. To that end, our comments are focused on supporting the future CPI in meeting customer agency mission requirements. They are intended to move the program forward for industry and government customers. Moreover, they acknowledge recent legislation, which directs GSA to include the three models it identified in the CPI program. Indeed, for these reasons, our comments discuss the expansion to include those three models GSA.

The Coalition comments focus on the consideration of cost, the structure of the contracts, the evaluation of additional means of e-commerce, competition, product integrity, and cybersecurity. Most fundamentally, we want to communicate that Coalition members strongly support the testing and/or inclusion of the additional e-commerce models GSA identified as part of any follow-on e-commerce contract program. Expanding the program to include the “e-commerce” and “e-procurement” models, along with the “e-marketplace” model, will enhance competition, increase value and choice for customers, and expand access to the commercial marketplace for e-commerce

solutions. Moreover, consistent with the underlying statutory authority for the program, GSA's approach should expand to include any other commercial solutions as the market evolves.

RFI Language: *One important area highlighted in the RFI is the incorporation of lessons learned over the last 18 months of the program's current implementation. Buyer feedback has significantly improved GSA's understanding of the e-commerce landscape, with the buyer's experience emerging as the top priority area. This feedback underscores the need to think beyond any previously identified business models, given that they were identified more than 5 years ago. The market has evolved and so too has GSA's understanding of the environment. Government purchase card holders are more interested in a given platforms' user experience, and the features on that platform to help them accomplish their mission more efficiently, as opposed to the type of platform or business model it operates. [Page 1.]*

Comment:

Consideration of Cost and Other Factors in Assessing the Value of E-Commerce

The Coalition agrees with GSA that buyer user experience is an important factor in assessing the value of a given solution. The Coalition also believes that other factors, such as direct and indirect cost to the government overall and purchasing agencies specifically, should be considered in this evaluation. Consideration of cost is especially important in the realm of e-commerce, where the government's experience is limited relative to that of the private sector. Analyzing cost in conjunction with other factors, such as buyer feedback, will provide GSA with a more complete picture of the e-commerce landscape than otherwise, help the program reach its true potential, and is consistent with the underlying statutory authority for the program. See Section 853 of the Nat. Def. Authorization Act, Pub. L. No. 81, 117th Cong. 1st Sess., Dec. 27, 2021 (hereinafter 2022 NDAA provision).¹

Additionally, issues raised in response to GSA's prior requests for stakeholder input still are relevant and should be considered and addressed. These include what the Coalition has termed, "Parallel Procurement Universes," or the risk of creating different procurement channels with different compliance regimes, causing confusion and potential compliance issues. One such risk includes confusion over trade preferences where, for instance, compliance with the Trade Agreements Act (TAA) is compelled at an overarching level under existing programs, but not addressed transactionally under the Commercial Platform pilot, given that the latter is limited to transactions below the micro-purchase threshold.

Evaluation of Alternate Means of E-Commerce

Regarding "the need to think beyond previously identified business models," the Coalition agrees that a broad review of e-commerce options should be conducted here. A lot has changed over the past five years and the Coalition's members strongly support the testing and/or inclusion of additional e-commerce models as part of any follow-on e-commerce contracts. The Coalition,

¹ Section 853 requires GSA, before taking any action with respect to the portal models tested, to provide a report to Congress on testing results that includes, among other things: (1) "an assessment and comparison of commercial e-commerce portal models with respect to— . . . **price** and quality of the commercial products supplied by each commercial e-commerce portal model"; and (2) "an analysis of the **costs** and benefits of the convenience to the Federal Government of procuring commercial products from each such commercial e-commerce portal model." (Emphasis added).

however, believes that any future testing should include the e-commerce and e-procurement models that GSA previously identified, in the next iteration of the CPI.

The importance of an expansive view that includes the e-commerce and e-procurement models is critical, as it affords the government the ability to access *multiple* e-commerce solutions. Even more importantly, however, it fosters healthy competition within and between various e-commerce models. It is also important to note that including the e-commerce and e-procurement models in any future testing is consistent with the underlying statute because now, pursuant to Section 853 of the 2022 NDAA, GSA is required to provide Congress “an analysis of the costs and benefits of the convenience to the Federal Government of procuring commercial products from each ... commercial e-commerce portal model.”

RFI Language: *A key focus of the program is assessing customer feedback through an innovative customer experience (CX) framework, consisting of regular buyer surveys, customer interviews, and other touchpoints to solicit customer feedback. The findings from the program’s CX efforts have been highly positive, with a customer satisfaction score of 9.0 (out of 10), and high marks in the areas of timing savings (92%) and price competitiveness (90%). [Pages 2-3. Citations omitted.]*

Comment: As noted above, the Coalition agrees with GSA that understanding the customer experience is an important part of assessing the utility of a given Proof of Concept (POC). The program’s CX efforts, including buyer surveys, provide useful information that GSA should consider in evaluating the initial POC.

To better understand the nature of these survey findings, it would be helpful for GSA to release the details surrounding the survey to the public, including its methodology. By so doing, stakeholders can understand how the survey was taken, what exactly was asked, and how responses were measured and contrasted against the *status quo*. This transparency will give the commercial market insight into what GSA considers important as it structures its next e-commerce procurement and will support the overall success of the program.

RFI Language: *Information from this RFI will also be used to support the Commercial Platforms efforts in meeting the requirement of the FY2022 NDAA, Section 853, which states that the program is to begin testing other commercial models (other than any such model selected for the initial POC). [Page 3.] Based on GSA’s initial proof of concept, GSA is looking for commercial platform models that meet the following criteria; reactions and recommendations are requested as to existing commercial practices that could meet the planned requirements... . [Page 4.]*

Comment: As previously noted, the Coalition supports expanding the Commercial Platforms program to include additional commercial models. This approach will enhance competition, leading to a variety of benefits, including, but not limited to: (1) further innovation across all platforms; (2) enhanced access to the commercial marketplace and products; and (3) increased value and choice for customers. As noted above, however, the Coalition does not think that GSA should abandon the e-commerce and e-procurement models that it identified under the statutory process, as these models serve an important role in the e-commerce program. Consistent with the statutory authority for the Commercial Platforms program, these models should be tested.

We also note that the 2022 NDAA provision does not state broadly “that the program is to begin testing other commercial models (other than any such model selected for the initial POC).” It amends the existing statutory process by adding requirements (new paragraphs 5 and 6) for GSA to

test models it identified pursuant to Section 846(c)(2) in the Market Analysis process, which includes e-commerce and e-procurement.² GSA should not abandon the process, but rather should follow the statute and conduct the testing of the other two models that it identified under the statutory process. This effort requires, among other things, an assessment of costs and “the impact on existing programs, including schedules, set-asides for small business concerns, and other preference programs.” The Coalition believes that testing the three e-commerce models identified by GSA will benefit the program and help it reach its full potential.

RFI Language: 3.1 Feedback Requested on Planned Contract Requirements. [Pages 4-8.]

Comment: The Coalition seeks clarity on several points in Section 3.1 of the RFI. Several of the planned requirements are unclear and may limit competition to certain solutions. For example, the RFI states that “Platforms must be in regular use by both consumers and Government buyers,” and it suggests that, under certain circumstances, a platform might be acceptable if used “routinely” in the private sector “and has, at a minimum, open market sales with Federal Government agencies.” Additionally, as it pertains to use by both consumers and Government buyers, it is not clear how GSA defines “regular use” and “routinely.”

RFI Language: Platforms should be able to provide cybersecurity protective measures in the areas of [enumerated scenarios]. [Page 7.]

Compliance:

- i. ***Section 889 (Supply Chain Risk Management) - Platforms must certify to both paragraphs (a)(1)(A) and (a)(1)(B) of section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232). Implementation is outlined in FAR Subpart 4.21, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. For e-marketplace providers, providers will assist buyers in understanding the certification status for all 3rd party suppliers.***
- ii. ***Platforms should restrict the sale of products or services by prohibited vendors. This includes any product or services prohibited by statute, regulation or other Federal policy (e.g., DHS Binding Operational Directive, the Federal Acquisition Security Council), including, [enumerated entities] . . . [Page 8.]***

Comment: By focusing its discussion on the cybersecurity protective measures of platforms, GSA appears to be leaving unaddressed cyber issues associated with the products offered for sale on those platforms. The Coalition believes this issue is important because (1) in the area of information technology, it could have cyber implications for government networks, and (2) it factors into the assessment of the POC’s impact on existing programs. Whatever solutions are piloted, there should be a clear understanding of the accountability for the cyber integrity of products offered, the costs and other risks associated with that cyber integrity, and an understanding of how all of the foregoing measures up against existing programs.

Along these lines, we also recommend that GSA take a broad approach to the consideration of how to address the enforcement of other supply chain risk issues, such as Trade Agreements Act requirements. That consideration should aim to ensure a level playing field across the board, regardless of the type of Commercial Platform. Such consideration would include, among other things, the role that certifications provided by suppliers play.

² Attached hereto as Attachment A is a copy of the relevant statutory language.

RFI Language: AbilityOne - GSA will continue to support and promote the purchase of AbilityOne products through its Commercial Platforms. To that end, platforms must either:

1. have the ability to identify, highlight, and promote AbilityOne products that are offered by authorized distributor; OR
2. mark or restrict, "Essentially the Same" (ETS) items on the platform during the shopping experience to ensure Government buyer compliance with the requirements identified in FAR Part 8. [Page 8.]

Comment: AbilityOne is a critical program for the government, and it enjoys significant popular support. A concern of some members with the use of certain e-commerce solutions is the ETS feature extant at the bottom of certain product search results. Offering ETS products in AbilityOne search results could confuse buyers and prompt improper purchases. For this reason, GSA should remove the option to restrict ETS and make the exclusion of ETS items to Federal customers a mandatory requirement of the GSA CPI contract(s), much like the ban on telecommunications products from Huawei *et.al.* and a reportable performance measurement. Therefore, the Coalition believes the language affording platforms the option to identify AbilityOne products "OR ... mark or restrict[] 'Essentially the Same' items" should be changed to require that platforms have the ability to identify, highlight, and promote AbilityOne products that are offered by authorized distributor; **and** mark or restrict, ETS items on the platform during the shopping experience.

It should be noted that, under the Javits-Wagner-O'Day (JWOD) Act, federal agencies generally are required to purchase AbilityOne products that the U.S. AbilityOne Commission has deemed suitable to procure. 41 U.S.C. § 8504(a). Furthermore, federal agencies are prohibited from buying products that are "essentially the same" as an AbilityOne product. 41 CFR §§ 51-5.3(a), 51-6.13(c). Although GSA's call for identifying, highlighting, and promoting of AbilityOne products is welcomed and appreciated, the Coalition believes that, in the current federal marketplace environment, it is not enough to ensure that federal agencies comply with the law and purchase AbilityOne products rather than their commercial ETS alternatives.

Finally, the reference to the foregoing in the RFI states:

[B]uyers are directed to buy AbilityOne and Skilkraft [sic] items from authorized distributors, instead of those products that are essentially the same as AbilityOne products, unless the products required are not available through the AbilityOne Program.

Please note that not all SKILCRAFT® products are included on the U.S. AbilityOne Commission's Procurement List. For this reason, the Coalition believes footnote should be replaced with the following:

Federal agencies with a requirement met by an item on the AbilityOne Procurement List must purchase the AbilityOne items exclusively from the source(s) authorized by the Commission and must refrain from purchasing Procurement List commercial equivalents that are ETS or are otherwise generic alternatives unless the AbilityOne product is not available.

Final Comments:

Increased Support for Small Businesses and Agency Small Business Utilization Goals

Consistent with the Administration's goal to utilize small and disadvantaged business, members believe that a plan to assure their participation in the CPI should be crafted. Therefore, we suggest that GSA work with agency OSDBUs, the SBA, and OMB, to craft guidance to agencies regarding the use of these firms and how that use might translate into the fulfillment of Federal agencies' small business goals.

Considerations for Modifications to CPI Purchase Limits

The Coalition recognizes that this RFI is not being undertaken in a vacuum and that ancillary policy proposals have been promoted over the course of the pilot. One such proposal is the idea of increasing CPI buying limits. As you know, these limits are in place, in part, because, above them, certain laws, such as those related to domestic sourcing, apply. Given the Administration's key emphasis on promoting domestic sourcing for goods and services, many of our members believe that it is important for GSA to consider how any adjustment of such limits fit with stated Administration policy. So too, any elevation should not be limited to the CPI program, as there exist Best in Class programs, like the GSA Multiple Award Schedules, that meet domestic sourcing and other compliance requirements, and thus, should not be disadvantaged by discriminating in the application of limits.

The Coalition and its members look forward to engaging and collaborating with GSA on the future of the Commercial Platforms program and appreciate this opportunity to comment. We believe that by including more commercial providers into the program, GSA and its customer agencies are likely to benefit from increased access to commercial e-commerce platforms and greater competition.

The Coalition appreciates the opportunity to provide these comments on behalf of its members in response to the Commercial Platforms RFI. Should you have any questions or concerns, please feel free to contact me at rwaldron@thecgp.org.

Sincerely,



Roger Waldron
President

Attachment A

Section 846(c) of the National Defense Authorization Act for fiscal year 2018, in relevant part, states:

(c) Implementation and Reporting Requirements.—The Director of the Office of Management and Budget, in consultation with the Administrator and the heads of other relevant departments and agencies, shall carry out ***the implementation phases set forth in, and submit to the appropriate congressional committees the items of information required by, the following paragraphs:***

(1) Phase i: implementation plan.—

Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], an implementation plan and schedule for carrying out the program established pursuant to subsection (a), including a discussion and recommendations regarding whether any changes to, or exemptions from, laws that set forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government are necessary for effective implementation of this section.

(2) Phase ii: market analysis and consultation.—***Not later than one year after the date of the submission of the implementation plan and schedule required under paragraph (1), recommendations for any changes to, or exemptions from, laws necessary for effective implementation of this section, and information on the results of the following actions:***

(A) ***Market analysis and initial communications with potential commercial e-commerce portal providers on technical considerations of how the portals function*** (including the use of standard terms and conditions of the portals by the Government), the degree of customization that can occur without creating a Government-unique portal, ***the measures necessary to address the considerations for supplier and product screening specified in subsection (e), security of data***, considerations pertaining to nontraditional Government contractors, ***and potential fees***, if any, to be charged by the Administrator, ***the portal provider, or the suppliers for participation in the program established pursuant to subsection (a)***.

(B) ***Consultation with affected departments and agencies about their unique procurement needs, such as supply chain risks for health care products, information technology, software***, or any other category determined necessary by the Administrator.

(C) An assessment of the products or product categories that are suitable for purchase on the commercial e-commerce portals.

(D) An assessment of the precautions necessary to safeguard any information pertaining to the Federal Government, especially precautions necessary to protect against national security or cybersecurity threats.

(E) A review of standard terms and conditions of commercial e-commerce portals in the context of Government requirements.

(F) ***An assessment of the impact on existing programs***, including schedules, set-asides for small business concerns, and other preference programs. ...

(3) Phase iii: program implementation guidance.—

Not later than two years after the date of the submission of the implementation plan and schedule required under paragraph (1), guidance to implement and govern the use of the program established pursuant to subsection (a), including protocols for oversight of procurement through

the program, and compliance with laws pertaining to supplier and product screening requirements, data security, and data analytics.

(4) Additional implementation phases.—

A description of additional implementation phases, as determined by the Administrator, that includes a selection of agencies to participate in any such additional implementation phase (which may include the award of contracts to multiple commercial e-commerce portal providers).

41 U.S.C. 1901 note. [Emphasis added.]

Section 853 of the 2022 NDAA states:

SEC. 853. ADDITIONAL TESTING OF COMMERCIAL E-COMMERCE PORTAL MODELS.

Section 846(c) of the National Defense Authorization Act for Fiscal Year 2018 (41 U.S.C. 1901 note) is amended by adding at the end the following new paragraphs:

(5) ADDITIONAL TESTING.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall—

(A) begin testing commercial e-commerce portal models (other than any such model selected for the initial proof of concept) identified pursuant to paragraph (2); and
(B) submit to the congressional defense committees, the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes—

(i) a summary of the assessments conducted under paragraph (2) with respect to a commercial e-commerce portal model identified pursuant to such paragraph;
(ii) a list of the types of commercial products that could be procured using models tested pursuant to subparagraph (A);
(iii) an estimate of the amount that could be spent by the head of a department or agency under the program, disaggregated by type of commercial e-commerce portal model; and
(iv) an update on the models tested pursuant to subparagraph (A) and a timeline for completion of such testing.

(6) REPORT.—Upon completion of testing conducted under paragraph (5) and before taking any action with respect to the commercial e-commerce portal models tested, the Administrator of General Services shall submit to the congressional defense committees, the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, a report on the results of such testing that includes—

- (A) an assessment and comparison of commercial ecommerce portal models with respect to—
- (i) price and quality of the commercial products supplied by each commercial e-commerce portal model;
 - (ii) supplier reliability and service;
 - (iii) safeguards for the security of Government information and third-party supplier proprietary information;
 - (iv) protections against counterfeit commercial products;
 - (v) supply chain risks, particularly with respect to complex commercial products; and
 - (vi) overall adherence to Federal procurement rules and policies; and
- (B) an analysis of the costs and benefits of the convenience to the Federal Government of procuring commercial products from each such commercial e-commerce portal model.