



March 13, 2018

Mark Lee
Assistant Commissioner for Policy and Compliance
General Services Administration
1800 F St. NW
Washington, DC 20405

Subject: Implementation of Order Level Materials

Dear Mark,

The Coalition for Government Procurement sincerely appreciates your team's efforts to finalize the Order Level Materials (OLM) rule, as well as your engagement with industry. The new OLM rule will benefit Government and industry by reducing unnecessary contract duplication, reducing administrative costs and burdens, and increasing the ease, with which, customer agencies meet mission critical requirements through the GSA Schedules. Our members are very interested in supporting the OLM implementation and training.

As requested, the Coalition also would like to share our members' (your industry partners') input on several topics raised during the IT/Services Committee meeting in February. Although a number of these issues were clarified during the meeting, it would be helpful to aggregate and address all these topics in writing as part of GSA's OLM guidance and other materials.

Implementation and Training

Effective and timely training will be critical to implementing the new OLM authority successfully, especially for the upcoming 4th quarter of the current fiscal year. The Coalition strongly recommends that GSA dedicate FTEs to provide training and support, beginning with GSA Schedule contracting officers, and for the acquisition workforce government-wide. To this end, OLM implementation guidance and training materials should be available to Federal agencies and industry. We request that GSA create a page at GSA.gov, available to both industry and their Federal customers, that clearly explains the rule and its associated requirements.

IFF

The final rule allows agencies to purchase OLMs on Schedule orders and requires that contractors remit Industrial Funding Fee (IFF) payment on OLMs. We recommend that GSA's implementation guidance allow the IFF to be included in the price of the OLM at the task order level, similar to the way the IFF is incorporated into the pricing for goods or services on the GSA Schedule.

Indirect Costs

A significant change to the final rule from the proposed rule was the ability for contractors to be reimbursed for indirect costs associated with the OLMs. Indirect costs are necessary to cover the administrative and operational costs of providing the OLMs as part of a solution and can only be identified to the Government as a firm fixed amount for the individual costs.

The Coalition supports the allowance of indirect costs and commends GSA for making this change. Our concern, however, is that, even though the final rule allows for the reimbursement of indirect costs, ordering agencies may be reluctant to reimburse contractors without explicit guidance from GSA. Therefore, we recommend that GSA make clear this authority to recover indirect costs when issuing the OLM guidance, and, in so doing, state specifically that this cost may be handled at the task order level in accordance with 52.212-4 (i)(1)(ii)(D)(2)(Alt I). We also recommend that GSA reinforce this allowability as a topic through outreach and training for agency customers.

Travel

The final rule notes that travel costs are governed by FAR 31.205-46 and exempts travel from certain requirements, such as IFF payment and the calculation of the total value of OLMs under each task order (which is limited to 33%). Coalition members support the travel exemption, and we encourage GSA to make the implementation guidance and training for agency buyers as clear as possible. Specifically, Coalition members are concerned that agencies may unintentionally group travel with other OLMs onto a single contract line item, which would add a burden to vendors when calculating IFF remittance.

Authorized Schedules

The stated intent for adding the OLM authority in the final rule was to bring the Schedules in line with other commercial item contracts. In this regard, we note that the FAR does not limit OLMs in commercial item contracts to a subset of products or services. For this reason, the Coalition recommends that, in connection with the Schedules, GSA do likewise. Specifically, GSA should allow for OLMs under all GSA Schedules. Maximum use of this authority will allow for greater flexibility and encourage new innovations to be added to the Schedules by contractors of all sizes, especially small businesses. It also would provide consistency across the Schedules program and remove any misuse on the part of the CO on those that do not allow for that authority.

Questions

The Coalition requests that GSA address the following questions in its OLM guidance and training:

- Who will be the GSA points of contact to respond to questions, from industry and Federal agencies, about the new OLM authority?
- How will contractors add the OLM SIN?

It is our understanding that the authority will be implemented through a MASS modification to Schedule contracts, and that GSA Schedule holders must simply

accept the modification to incorporate the authority. No additional negotiations with GSA to add the OLM SIN will be required.

N.B.: With the fourth quarter approaching, contractors want to have the OLM authority added to their contracts as quickly as possible. GSA should eliminate the administrative burdens of adding the SIN (if any) to the maximum extent possible.

- Is the OLM authority retroactive in any way? Can the OLM authority be added to BPAs that have already been awarded? What do agencies need to do to implement this new capability?
- Is it possible to have a contract with both Other Direct Costs/ Ancillary Items and OLMs? If so, how should they be treated differently?

N.B.: GSA's Ordering Guidelines¹ should be updated to reflect any differences between OLMs and Open Market Items.

The final rule is a significant, positive step towards a more flexible, efficient, and innovative MAS program. Coalition members look forward to working with GSA toward a comprehensive and effective implementation of the OLM rule. If there are any questions or additional topics for industry input, feel free to contact me at (202) 315-1051 or rwaldron@thecgp.org.

Sincerely,



Roger Waldron
President

¹ Posted at <https://www.gsa.gov/acquisition/purchasing-programs/gsa-schedules/for-federal-agency-customers/ordering-guidelines>