



December 12, 2017

Neomi Rao  
Administrator, Office of Information and Regulatory Affairs  
Office of Management and Budget  
1650 Pennsylvania Ave NW  
Washington, DC 20502

Subject: Order Level Materials Proposed Rule, GSAR Case 2016-G506

Dear Ms. Rao,

The Coalition for Government Procurement (the Coalition), on behalf of our member firms, is writing to express our concern regarding the status of the Order Level Materials Final Rule (GSAR Case 2016-G506). The General Services Administration (GSA) published this proposed rule in the Federal Register 15 months ago. To date, the final rule has not been issued. This rule is consistent with Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and issuing a final rule is crucial to streamlining Federal procurement.

The Coalition is a non-profit association of firms selling commercial services and products to the Federal Government. Our members collectively account for tens of billions of dollars of the sales generated through the GSA Multiple Award Schedules (MAS) program, VA Federal Supply Schedules (FSS), the Government-wide Acquisition Contracts (GWAC), and agency-specific multiple award contracts (MAC). Coalition members include small, medium, and large businesses that account for more than \$145 billion in Federal Government contracts. We represent a broad scope of industries including information technology (IT), professional services, medical products and pharmaceuticals, furniture, and office supplies. The Coalition is proud to have worked with Government officials for more than 35 years towards the mutual goal of common sense acquisition.

The Coalition strongly recommends that the Office of Management and Budget issue the final rule, and, in so doing, incorporate the feedback which the Coalition and its members have provided. Finalizing this rule is a vital step in improving the efficiency and effectiveness of the Federal Government when using the GSA Schedules for customer agencies and industry partners. In addition as addressed below, this action would be consistent with Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, (the EO) which directed the Federal Government to reduce the costs of regulations imposed on industry.

### **Order Level Materials Proposed Rule**

The Order Level Materials (OLM) proposed rule reduces contracting costs for government and industry by increasing the GSA Schedule program's capacity to provide comprehensive, commercial solutions. The federal government has a management goal of reducing unnecessary contract duplication through use of pre-existing contract vehicles. See the Office of Management and Budget (OMB) Memorandum M-17-22, Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce. The OMB memo directs agencies to

consider using government-wide contracts, including the Schedules, for the acquisition of common goods and services.

GSA Schedule contracts offer a vast array of products and services. Agencies may not, however, be able to use the program effectively to acquire solutions and complex projects when some, typically small, portion of the requirement is not already available under a Schedule contract. The current program does not provide an efficient method for acquiring these non-contract items (often referred to as “Other Direct Costs” or ODC’s). It is our members’ experience that rather than risking or delaying completion of an acquisition to cover ODCs, agencies choose to establish new contracts which largely “duplicate” MAS contract coverage, driving up costs for industry.

Notably, FAR clause 52.212-4, Alternate 1, already authorizes a contract mechanism for competing, acquiring, and reimbursing contractors, at the order level for ODC’s, materials, and indirect clauses. To the best of the Coalition’s knowledge, the MAS program remains the only commercial item contracting program that has not fully incorporated the use of ODC’s, and thus, the program places its own contracts at a competitive disadvantage relative to other contracting options. Without an ODC mechanism in place, agencies are forced to look to alternative contracting vehicles. Allowing for ODCs through the final rule would create parity between the GSA Schedules program and other commercial Indefinite delivery, Indefinite quantity (IDIQ) contracts used by Federal agencies.

An improved GSA Schedules program would reduce the need for duplicative contracts. Unnecessary contract duplication increases administrative costs for both Government and industry. Agencies must devote time and energy to developing duplicative contracts, which leads to increased bid, proposal, and contract administration costs. Based on feedback from our members, the Coalition has estimated that contract duplication currently costs large businesses at least \$2 million per year and small businesses at least \$500,000 per year to maintain contracts that offer the same or similar products and services, already awarded in their GSA Schedule contract.

The Coalition recommends that OMB immediately issue the final Order Level Materials rule. As noted in the EO, “it is the policy of executive branch to...manage the costs associated with the governmental imposition of private expenditures to comply with Federal regulations.” The revised OLM rule advances the Administration’s agenda by lowering the regulatory burdens for contractors.

Each day that this rule remains unissued results in higher operational and administrative costs for government and industry.

Thank you for considering the Coalition’s request for an update on the Order Level Materials Proposed Rule. If there are any questions, please contact me at (202) 331-0975 or [rwaldron@thecgp.org](mailto:rwaldron@thecgp.org).

Sincerely,



Roger Waldron  
President