

**Summary Minutes of the U.S. General Service Administration
Multiple Award Schedules Advisory Panel
Public Meeting, June 16, 2008**

Committee Members: See Attachment A

Committee Members Present: Elliott Branch, Judith Nelson, Alan Chotvkin, Thedlus Thompson, Larry Allen, Debra Sonderman, Glenn Perry, Thomas Essig, Jacqueline Jones, Thomas Sharpe, Jr., Jan Frye, April Stephenson, Donald Erickson, and Lesa Scott.

Date and Time: June 16, 2008, 9:00am to 4:45pm

Location: AIA
1725 New York Avenue, NW.
Washington, D.C. 20405

GSA Staff: Pat Brooks, Designated Federal Official

Presenters: Steve Kempf, Assistant Commissioner for Acquisition, Federal Acquisition Service, GSA
Brian Pallasch, Council on Federal Procurement For Architectural & Engineering Services
Barbara Kinosky, President & CEO
Centre Consulting
Bill Gormley, President
Washington Management Group
Bruce Leinster, Information Technology Association of America
James Phillips, Executive Vice President, Centre Consulting
Eldred Jackson, Deputy Director Of Administration
Office of Justice Programs,
Department of Justice

Meeting summary:

The meeting focused on input from the many MAS Program stakeholders as to what their respective expectations are from the MAS program and whether the MAS program is

structured to provide timely consistent guidance and provides cost effective products, services, and solutions to them. The government and industry provided oral comments.

Opening of Public Meeting:

Pat Brooks, Designated Federal Official (DFO) for the MAS Advisory Panel opened the meeting.

Ms Brooks made administrative announcements and outlined the process and procedures for the meeting. The Panel was established in accordance with the provision of the Federal Advisory Committee Act; therefore, public access to participate in meetings, public input to the deliberations, meeting deliberations, etc. will comply with those provisions.

The first presenter, Steve Kempf .Assistant Commissioner for Acquisition Management, Federal Acquisition Service (FAS), described the internal efforts FAS has undertaken to more effectively manage the MAS program. These efforts include: (1) a reorganization that has resulted in a stronger management and oversight structure within FAS; (2) the development of three programs that focus on assisting the small business community to become successful schedule contract holders-

- (a) Pathway to Success- available on the Web twenty four hours seven days a week; it provides guidance on how to prepare a winning business plan and how to submit an offer; approximately 8K vendors have taken the course
- (b) Contractor Orientation course- this course covers the key areas a vendor needs to be aware of such as the Trade Agreements Act; also addresses how to sell to the government
- (c) Customer assistance visits-industrial operations analyst visit the contractor site within 1-2 years of contract award; the site visit includes a review the basis of award and fee review; a report card on this review is sent to the procuring contracting officer.

(3) E-Tools

- GSA Advantage- on line catalogue of everything on schedule; 600K registered users; 100K changes are made daily in GSA Advantage; 75% of Advantage orders are going to small business
- E Buy –average number of quotes received is 6; contracting officers can solicit all vendors or select a limited number such as small business or veteran owned businesses
- eOffer and eMod- making changes to make these more effective for both GSA and the vendor community.

Mr. Kempf also discussed current and future initiatives that FAS will be implementing in the near future. These are the:

- Establishment of a MAS program office. This office will have primary responsibility in 3 areas- consistency in policy and procedures (where it makes sense) across the three portfolios; will be lead integrator for the systems; will be focal point for key stakeholder (industry, IG, etc)

- MAS modification initiative- applied lean six sigma to review the modification process; recommendations have been accepted and implementation will begin in FY09. Implementation will result in each MAS program Center having an intake desk. This will enable each Center to be able to measure how long mods take and the kinds of mod that are being received. This provides for more management control and better workload distribution.
- Rapid additional modification process- add new products where there is no change to the basis of award; online capability being developed
- Rationalization- review overlap and gaps in the schedules program; where are the overlaps; and how to effectively eliminate; example is the convergent technology on Schedule 84 and HSPD12 on Schedule 70

Mr. Kempf stated that the MAS program does provide value to the GSA customer and gave several examples that demonstrate the value of the MAS program. The examples were the SMART BUY initiative that leverages the MAS program to purchase software across and agency enterprise, teaming arrangements that allow contractors to team for complex projects, and the use of Blanket Purchase Agreements (BPA) for repetitive needs.

Mr. Kempf addressed some of the issues, in his opinion, that are affecting the MAS Program. The issues included the need for customer training so that the MAS program customer will know when to ask for price reductions; developing the means for or having access to data related to ordering; the proliferation of non GSA contracts (GWACS/MACS) across the government that drives up the cost of doing business for the contractor and reduces GSA's ability to leverage schedule pricing; and trying to determine when consistency across the MAS program is appropriate.

In response to questions, he suggested that the panel determine if the application of current clause is still appropriate for products and services or should there be a separate clause for each. With regard to questions on whether it would make sense for GSA to negotiate multiple tier prices, he stated that GSA already does some tier pricing for initiatives such as SMART BUY. Generally, GSA has no insight into who is buying what when.

Mr. Kempf's presentation is at [Attachment B](#)

Brian Pallasch represented the Council on Federal Procurement for Architectural Engineering Services (COFPAES). Mr. Pallasch stated that GSA Schedules that provide for architectural and engineering services as defined in FAR Part 36 are in violation of the Brooks Act. He further stated that under the Brooks Act, architectural and engineering services are public safety concerns; therefore, the selection of the firm to do the work is based upon qualifications and technical capabilities rather than the price competitions utilized by the Schedules. COFPAES requested that GSA removes services such as professional engineering, surveying, and mapping. According to Mr. Pallasch, GSA's refusal to remove these services from the Schedules forces COFPAES members to get MAS contracts in order to compete for government contracts thus GSA is in effect forcing industry to be in violation of the Brooks Act.

In response to questions, Mr. Pallasch pointed to Schedule 871 that provides for professional engineering is one of the Schedules that violate the Brooks Act. COFPAES has proposed some remedies to GSA and is awaiting its response.

Mr. Pallasch's presentation is at Attachment C

Barbara Kinosky, President & CEO Centre Consulting addressed two issues: time and materials, and performance based contracting. Ms. Kinosky stated that due to past abuses when using time and materials contracts, the government has over regulated the ability of the government to utilize time and materials contracts. The result of such over regulation is the loss of flexibility for agencies to procure services without approvals above the contracting officer.

In regard to performance based contracts, Mr. Kinosky stated that not all acquisitions are appropriate for performance based contracts. She asked, for example, do we really need to monitor how fast a receptionist answers the phone? The government needs the ability to buy some services quickly on a labor hour basis without the need for excessive amounts of documentation.

Ms. Kinosky's presentation is at Attachment D

Bill Gormley, President Washington Management, provided a brief history of the MAS Program. He stated that the MAS Program started with Treasury and transferred to GSA in 1949. There was lots of discussion on pricing policy during 80s and 90. GSA developed new policy in 1996. The initial schedules provide products only. During the same time frame, GSA responded to customer requests and added services to the schedules program. With regard to GSA being able to guarantee the lowest price, he stated that is a myth. From his perspective, there are three elements in the commercial pricing model, (1) inventory level, (2) market penetration, and (3) sales goals. All of these are fluid and are known at the time of the buy. Because of the fluidity, no guarantees can be given. His example to further emphasize this point was that even Wal Mart no longer guarantees "the lowest prices" but it guarantees "low prices".

For buying services, he suggested that the Panel consider a two step approach for the MAS program. In step one, utilize past performance, financial, and the ability to meet the terms and conditions as qualifiers for a contract. Step two is competition at the task order level. This will result in increased competition, the ability to obtain the lowest overall cost on each task order, and entice new commercial service companies to the MAS program, particularly small businesses.

In his opinion, Mr. Gormley stated that there are several MAS program areas that are not working. He suggested the following changes:

- Pricing for services – utilize a two step process as described above
- EPA-the economic price adjustment (EPA) clause has a 10% cap. Government delays in executing modification for EPAs are harming the contractor. The delay

makes the government price even more favorable than the price of the most favorable customer.

- Adding items under existing special item numbers (SIN)- remove barriers to add items;
- Price reduction compliance- must have a narrow base of award rather than all customers. This allows industry to set up compliance system for those things that are really important.
- Don't treat renewals like new offers- this creates stumbling blocks and major delays for the customer
- Audits-complete on time; this is a resource drain for the company with delays and repeated request for data runs; contracting officers allowed auditors to do the negotiations; need to develop common objectives
- Inconsistent understanding of policy- GSA needs a MAS program office to ensure customers can receive consistent policy and guidance
- Data requests – contracting officer are requesting more data than is required by the current policy requirements. Suggests that GSA insert fair and reasonable and delete most favored customer from the policy to eliminate additional data requests.

In response to questions, Mr. Gormley recommended changes to the CSP data for services and that the schedules should somewhat mirror GWACS with competition at the task order level. He further suggested that the concept of the most favored customer be eliminated but retain fair and reasonable price. The intent of most favored customer was to get the government access to commercial products and services. Given the array of products and services in any given industry, there is no way that the government can guarantee the lowest price. The Government does have a responsibility to the taxpayer, to acquire products/services at fair and reasonable prices.

Mr. Gormley also stated during questioning that he favored the use of cost reimbursement contracts for services under the MAS program.

In response to a question regarding where GSA should focus its attention going forward, Mr. Gormley stated that GSA should focus on acquiring adequate resources to support the MAS program such as filling the numerous 1102 vacant positions.

Mr. Gormley's presentation is at [Attachment E](#)

The representative from the Information Technology Association Of America (ITAA), Bruce Leinster, addressed the expectations that industry has for the GSA Information Technology Schedule 70. Schedule 70 is a close to commercial as it gets and the Schedule program should provide an unencumbered process for procuring commercial products/services competitively and timely. His characteristics of such a process include:

- 1). Fast and easy to use, offering
 - Streamlined processes with an emphasis on simplicity;
 - Ordering guidelines for customers that are easy to understand and follow;
 - Terms and conditions for contractors that are easy to understand and follow;

- And an automated system, managed by GSA, to support task order award and administration.

- 2) Low administrative costs for the government and contractors
- 3) Open solicitation with competition at the task-order level, administered by the agency
- 4) Wide acceptance by government agencies and contracting officers
- 5) Consistent interpretation of terms, conditions and guidelines by GSA across all regions
- 6) Specific requirements detailed at the task-order level
- 7) Task order requirements and sufficient specificity to determine contract type at the task-order level
- 8) Timely processing of modifications to keep the contract current and competitive
- 9) Use of blanket purchase agreements; and
- 10) Ability to provide integrated solutions through the use of contractor teaming arrangements

In comparing the commercial market place to the federal market place, Mr. Leinster pointed out several factors. First, business and pricing practices are not required to be disclosed or certified, except when necessary to address a particular issue of customer satisfaction. Second, tracking and reporting of sales activities are not required, and there is no limitation or restriction on the place of manufacture or the source of materials. While there may be exceptions in particular customer-negotiated settlements, any such pricing, tracking or sales reporting requirements are not subject to the type of penalties associated with federal acquisitions. Third, in addition, in the federal acquisition environment, the risk of failing to comply with the myriad government-unique requirements and terms and conditions – even when using the GSA IT schedules – poses a far more menacing prospect to commercial contractors than we face in the commercial marketplace. The False Claims Act, bid protests, the Buy American/Trade Agreement acts, the Truth in Negotiation Act, pre- and post-award audits and suspension and/or debarment are examples of government-unique requirements that drive up the costs for contractors.

In the area of schedule pricing Mr. Leinster suggested that GSA eliminate the manner in which prices are set and published in the Schedules program. The provisions of the Clinger-Cohen Act and the Services Acquisition Reform Act with regard to competition and ordering under the Schedules program has made the GSA schedule price irrelevant. Real prices are established at the task order level where requirements are defined and competition drives the task order prices. Given this environment, Mr. Leinster suggested that there is no value to the existing negotiation/price reduction process?

Mr. Leinster proposed that the Panel consider two provisions: (1) the first provision deals with the IT schedule establishment of product prices and it is set forth in Title IV of the Clinger-Cohen Act; and (2) the second provision addresses the pricing of hourly rates and is listed as recommendation number four in the Acquisition Advisory Panel's report to the Congress. Both models are based on the reality that real prices are established through competition at the task-order level and both models propose the elimination of any negotiated, published schedule price.

With regard to the Panel's belief that industry should be able to provide to each customer prices that were paid by other customers for similar products and services, Mr. Leinster stated that he did not feel that is or should be the responsibility of the contractor. Moreover, he stated individuals within a company may not be aware of other clients and prices quoted to those clients.

Mr. Leinster later stated that the ultimate determination for fair and reasonable price is competition. Industry cannot publish a price for, for instance, solutions when industry does not know what to price until the government releases its requirements.

Mr. Leinster's presentation is at Attachment F

James Phillips, Executive Vice President, Centre Consulting provided comments on customer expectations with regard to pricing. He stated that the one important aspect that the schedules program provides is flexibility; therefore, any recommendations from the panel should preserve flexibility. For the pricing areas, Mr. Phillips stated that: (1) there is no legal requirement and a myth that the MAS price reflects the most favored customer price. The current environment means that the prices are set to accommodate both low volume and high volume sales opportunities without regard to the size of a particular opportunity. It is irrational to expect that the price will be the same on a \$100 deal as it would be on a \$1M deal; (2) given the difficulty of modifications to add new products, and the number of contract renewals that are also time consuming, GSA should reorganize in a manner that has the majority of its contracting resources dedicated to core transactions such as modifications; and (3) the Federal Acquisition Streamlining Act and the Clinger Cohen promoted buy commercial products/services without the imposition of unique government obligations. Trends, such as the inflexible application of the price reduction clause has undermined the appeal of the MAS program on large commercial customers. In addition, standard commercial practices such as commercial rebates are being characterized as kickbacks by the Department of Justice.

Mr. Phillips also opined during questions that because some large businesses are opting out of the schedules program because of compliance challenges, the government will have to utilize resellers. This practice will drive up the cost because of the markup that added by the middleman.

Mr. Phillips presentation is at Attachment G

Eldred Jackson, Bureau Procurement Chief, Office of Justice Programs, Department of Justice is a customer of the MAS program and shared his perspective and experience with utilizing the schedules for one of his requirements. His office has placed task orders against several schedules, e.g., IT equipment and services, video film production, audit support, office supplies, and environmental services. Mr. Jackson discussed his expectations for the MAS program contractor in response to the solicitation and his expectations for GSA MAS program policy support. His expectations for the contractor included:

- Propose a good team that has requisite experience and identify key personnel
- Clearly define roles and responsibilities for proposed staff
- Demonstrate creativity in the approach not just a generic solution

- Always ask questions, never assume
- Team arrangements are welcomed

His expectations for GSA program support were:

- Better direction
- GSA contracting officers participate in customer agency oral presentations when invited
- Emphasis on GSA and agency contracting officer relationships versus Councils that focus on government industry relationships
- Agencies should not feel that they are on their own during contract administration when either the agency or the contractor encounters problems/issues.

In response to questions, Mr. Jackson stated he regularly use eBuy. Also his preference is to use the Schedules because even when he does a FAR Part 15 competitive acquisition the vendors competing also have schedule contracts so why not just use the Schedules initially. He also felt that GSA contracting officers need to do better due diligence to ensure that GSA schedule vendors can really do the job.

Mr. Jackson's presentation is at Attachment H

At the end of the presentations, the Panel discussed issues and concerns that should be addressed and those that GSA should address in the future for areas that are beyond the scope of the panel. The Chairman asked the Panel to provide comments for the following areas:

- (1) Are there any near term actions that the Panel would recommend to improve the effectiveness of the MAS program within the scope of the charter.
- (2) Given the schedules business model, what are the other things that the Panel would recommend beyond the pricing area; and
- (3) Contract type- are schedules flexible enough to allow for variety of contract type; does GSA need to take a different approach when buying services vs. buying products
- (4) Structure vs. execution- is the problem the structure of the pricing model at the contract level or is it execution at the task order level

A summary of each panel member's comments follows.

Debra

- Mismatch of expectations – vendors don't know what it means to be a GSA schedule holder; this is similar to the old SF129 where vendors thought that the bidders mailing list would get them work where now they think a schedules contract is the success
- Competition-perception of competition at the schedule contract level; but she believes this is merely a qualification.

Theklus

- MAS contracts have a very broad scope to meeting various needs (socio-economic); strength of the program is that we require contractors to comply with certain requirements prior to the task order.
- Schedules are the building blocks.
- Need to provide more outreach to the vendors and our agency customers.

Jan

- Reading of historical documents indicate that issues are the same; find it difficult to believe that vendors cannot provide information on pricing to their most favored customers; don't believe rules are burdensome on industry
- Clearly a difference between buying products and services
- Do large corporate purchases do the same thing; how does industry buy

Glenn

- Not certain where to draw the line based upon the charter;
- We should not assume that the schedules business model today is good for everybody. Things such as changes in the rules, changes in the market place, and changes in technology that provides more access to information today, suggests that the GSA schedules business model may need to be different.
- GSA does not address the compliance issues; GSA has no business data to be certain that vendors are complying with the schedule terms and conditions, therefore agencies have no confidence
- Need to separate products from services in implementing the price reduction clause

Lesa

- The COs know how to award schedules but don't know how to issue task orders; therefore cannot provide assistance to the customers
- CO have incentives to get the prices as low as possible
- Audits push the CO for cost build up particularly for services
- Individual orders are not one government for vendors; these are unique requirements for vendors
- At task order experience level, the schedules saved time and money; however finding that many small agencies don't compete at the task order level
- At small agency, competition at the contract level will help small agencies; eBuy and GSA advantaged loaded with prices; however, this does get us away from the standard commercial pricings as intended
- Vendor personnel have flexibility on pricing to bring in the deal; this rational may not be documented which drives the auditors crazy

Alan

- Believe scope is adequate for the panel to review all issues

- Ambiguity in the application of the existing rules; not surprising that there is difference in expectations
- Three areas to review (1) difference between products and services; (2) how to maximize competition that makes schedules advantageous to the agency; need to look at sales and review; (3) where pricing should be –at contract or task order level; there may be models that will help us make decisions if there is a data gap

Don

- Education and training is sorely needed; what is the value of the schedules program; what should its purpose be;
- In the area of training suggest that the recommendations include that FAS (1) evaluate existing training and (2) consider augmenting the existing training for both the vendor and contracting community;

April

- Different approach for product and services but don't know what the solution is; this panel may not be equipped to come up with the approach but may recommend another panel to review this area
- GSA needs to explain to the ordering agency the value of the schedule and that the schedule is a starting point.
- Industry repeats they don't know what is being sold to whom and at what price; not a very well run company; support we need more price and sells data from the vendor

Judith

- Need to separate products and services; however, since most of work is integrated solutions believe monitoring is the key. Not easy just to separate given an integrated solutions environment
- Advocate removing phrase "most favored customer"; great confusions on this term; fair and reasonable seems to be better
- Suggest statement that negotiated price is a "ceiling price" to eliminate mixed expectations
- Policy not totally be skewed toward the large business
- The stakeholder that we have not heard from is Congress; schedules are not mandatory; however schedules must implement congressional mandates such as energy star
- Pricing study is looking at what the contracting officers are negotiating at the task order level
- No evidence that the services pricing model is not working; all evidence point to the contrary

Thomas

- Products and services must be addressed separately
- Mixed views of the value of the schedules program; appear to be overly reliant on the vendor
- Structural conflict of interest- if GSA gets better pricing,, then there is less fee

- We want to know what we are paying for things so data is important; therefore, there must be a standard way

Jacqueline

- Industry wants to do away with PRC and leave the process
- Elred did not mention the price reduction clause as an issue
- Price is not the only issue that determines the value to our customer
- MFC- in today's environment vendors have preferred customer; for example grocery stores, airlines, hotel chains provide benefits for repeat customer; therefore MFC is relevant for the schedules program

Larry

- Program inherently sound but needs some adjustments
- Concern is inconsistency in data disclosure requirements; therefore a streamline and commonly applied baseline is realistic; will never get away from requiring some data
- PRC is a mechanism to assure price reasonableness; is not the most effective mechanism but it is one
- If the desired roadmap is to improve competition, then give business a specific piece of business on what to compete for
- Benefit of schedules-evaluate offerors, educate customers, maintain e tools; frees up other agencies to focus on core mission. No speaker has suggested otherwise.
- Look at SARA panel recommendation on unpriced schedules; do pilot on pricing at the task order level
- Suggest we invite customer agencies

Tom

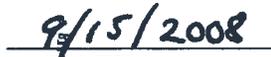
- Enterprise level contracts are changing the dynamics and allow for leverage buying. They also provide significant savings that one does not realize for individual transactions.
- What is the benefit for the fee charged by GSA
- For services, value is not necessarily lowest price
- The PRC focuses on price only. Quality and value are also important
- Need to understand the solution is not the same for all agencies.

As a result of the discussion, during the June 17, 2008 session, the Panel agreed that it would attempt to identify the top three issues and identify any data needs to complement the analysis or support any proposed recommendations.

Federal Acquisition Service data and response to questions are at Attachment I

Attendees at Attachment J


 ELLIOTT BRANCH, Chairman
 Multiple Award Schedule Advisory Panel


 DATE