

Order-Level Materials FAQ #2

Last Updated August 8, 2018

Training

1. Is GSA going to offer OLM training?

GSA began conducting OLM training webinars in May 2018. OLM training webinars are scheduled throughout the summer of 2018. All OLM training opportunities will be posted to [GSA Interact](#).

The OLM training presentation and other reference materials are posted on GSA's OLM page at www.gsa.gov/olm.

2. Can you provide in-person training or a webinar for my agency/organization/etc.?

Please visit our [Request Instructor Training](#) page for specific training needs.

Terms and Conditions

1. Do all Schedule contract-level terms and conditions apply to OLMs?

Yes, with three exceptions. OLMs are exempt from the following clauses:

- 552.216-70 Economic Price Adjustment - FSS Multiple Award Schedule Contracts
- 552.238-71 Submission and Distribution of Authorized FSS Schedule Pricelists
- 552.238-75 Price Reductions

All other Schedule contract-level terms and conditions apply (e.g., Trade Agreements Act (TAA), Industrial Funding Fee (IFF) and Sales Reporting, AbilityOne, Transactional Data Reporting (TDR) (if applicable)).

2. Can the “open market items” authority in FAR 8.402(f) be used to add non-TAA-compliant items to Schedule orders?

For administrative convenience, open market items can be added to a Schedule order per FAR 8.402(f). However, they must be clearly marked in the order as non-Schedule/open market items (i.e., they are not being purchased under the authority of the Schedules Program), and the purchase of these open market items must comply

with all applicable acquisition regulations, to include the Trade Agreements Act. Therefore, if the Trade Agreements Act would otherwise apply to the open market purchase of the item, it applies to items purchased in accordance with FAR 8.402(f).

3. Do industry quality standards (e.g., ANSI/BIFMA standards for furniture) apply to OLMs?

If a quality standard would otherwise apply to the item when purchasing on an open market basis, it applies to the item when purchasing using OLM authority.

4. Why are OLMs only authorized under 7 Schedules? Doesn't it make more sense to include this authority under all Schedules?

Based on feedback from industry and ordering activities, GSA identified the seven (7) Schedules that would most significantly benefit from the authority to acquire OLMs:

- 03FAC - Facilities Maintenance and Management
- 56 - Buildings and Building Materials/Industrial Services and Supplies
- 70 - General Purpose Commercial Information Technology Equipment, Software and Services
- 71 - Furniture
- 84 - Total Solutions for Law Enforcement, Security, Facilities, Fire, Rescue, Clothing, Marine Craft, and Emergency/Disaster Response
- 00CORP - The Professional Services Schedule
- 738X - Human Capital Management and Administrative Support Services

GSA's Senior Procurement Executive will consider adding OLM authority to additional Schedules in the future.

Compliance

1. How will a contractor demonstrate compliance to the Industrial Operations Analyst (IOA) for orders that include OLMs?

The Order-Level Materials SIN is much like any other Schedule SIN when it comes to IOA compliance visits. IOAs will check for compliance with applicable clauses, which for the Order-Level Materials SIN includes all Schedule contract clauses with the exception of the EPA, price list, and price reductions clauses (see Terms and Conditions, above). This will include things like ensuring proper compliance with sales reporting, IFF remittance, Transactional Data Reporting (if applicable), etc. IOAs will be checking to make sure that OLMs are included only in orders under Schedules authorized for OLMs, and that a contractor utilizing OLM authority has been awarded the Order-Level Materials SIN. They will also be checking for compliance with GSAR

clause 552.238-82 *Special Ordering Procedures for the Acquisition of Order-Level Materials*, e.g., for documentation related OLM items exceeding the Simplified Acquisition Threshold (the three-quote requirement and etc.).

2. Does Transactional Data Reporting (TDR) apply to OLMs?

Yes. If a contractor is participating in the TDR Pilot, all TDR data elements must be reported for the Order-Level Materials SIN just as they are for any other awarded SIN.

3. Will GSA verify that the contractor has the authority to sell an OLM item (e.g., does the manufacturer allow the contractor to sell the item or are they getting it from another source)?

OLMs are established at the order level, so if verification is required it will need to be handled by the ordering contracting officer.

4. Does a contractor need to update its Authorized Federal Supply Schedule Price List after adding the Order-Level Materials SIN?

Yes. Once the Order-Level Materials SIN is added to the Schedule contract, the contractor needs to add it to its Schedule price list. Please keep in mind that no items or pricing are awarded at the contract level under the Order-Level Materials SIN - by definition, OLMs are unknown when the contract is awarded and therefore must be established and priced at the order level.

Therefore, the Order-Level Materials SIN is added to the list of awarded SINs on the price list, but without any pricing entries. If desired, contractors may refer ordering activities to www.gsa.gov/olm for more information, and/or they may note in the price list that OLMs are established and priced at the order level.

5. Is special documentation required for orders that include OLMs?

Special Ordering Procedures for the Acquisition of Order-Level Materials (see GSAR clause 552.238-82) include several documentation requirements unique to OLMs. A contractor proposing OLMs as part of a solution is required to obtain a minimum of three quotes for each OLM above the Simplified Acquisition Threshold. One of these three quotes may include materials furnished by the contractor under FAR 52.212-4 Alt I (i)(1)(ii)(A). If the contractor can't obtain three quotes, the contractor is required to maintain its documentation of why three quotes could not be obtained to support their determination. A contractor with an approved purchasing system per FAR 44.3 is required to instead follow its purchasing system requirement and is exempt from these requirements.

Please also note that in accordance with GSAR clause [552.215-71](#) *Examination of Records by GSA*, GSA has the authority to examine the contractor's records for

compliance with the pricing provisions in FAR clause 52.212-4 Alternate I, to include examination of any books, documents, papers, and records involving transactions related to the contract for overbillings, billing errors, and compliance with the IFF and the Sales Reporting clauses of the contract.

The 33.33% Limitation on OLMs

1. Is the 33.33% based on dollar value of the order or the number of items ordered?

The 33.33% limitation on OLMs is based on the total dollar value of the order. GSA considers “total value” to be the anticipated or recorded dollar value of Schedule contract items at time of order award, inclusive of option periods and the IFF. Travel costs and open market items are excluded from this total value calculation.

2. How is the 33.33% limitation applied to BPAs?

The 33.33% limitation applies to each individual BPA order, as opposed to across all orders placed under the BPA.

3. What about logical follow-on orders issued on a sole source basis - does the 33.33% calculation start over?

Yes. A logical follow-on order is a new order, and therefore the 33.33% is calculated based on this new order only.

4. If items are not awarded at the Schedule contract level and have to be added to an order under the Order-Level Materials SIN, what happens if they're added to the Schedule contract during the order period? Does the OLM calculation go back to zero, or does it stay as-is?

The existing OLMs and their relative percentage under the order remain the same. If an item is routinely provided and can be priced at the Schedule contract level, it should be added to the contract under an Ancillary or ODC SIN when available. It's likely be rare that items included under the Order-Level Materials SIN will be able to be priced at the contract level, though. OLMs tend to vary widely depending on the specifics of the order, which is why they can't be established or priced at the contract level.

5. What happens if the 33.33% limit is exceeded on an order?

Compliance with the regulatory 33.33% limitation is important. GSA recommends close monitoring of orders to prevent this from happening. Our long-term goal is to demonstrate successful and proper use of OLM authority so we can make a strong case

for incorporation of OLM authority into FAR Subpart 8.4. Frequent misuse and abuse of this authority, even on a small scale, will hinder these efforts.

6. If an ordering agency is working with GSA's Assisted Acquisition Services (AAS), do AAS's fees count toward the total value of the acquisition?

No. When ensuring an order complies with the 33.33% limitation on OLMs, AAS fees should not be included when calculating the total value of the order.

7. What if certain CLINs under an order are defunded, causing the balance of OLMs versus total value to be thrown off unexpectedly and for the 33.33% limitation to be exceeded?

This is a scenario that could not be predicted. Therefore, if it is impossible to bring the OLM percentage back into compliance when the order is modified/defunded, document the file with an explanation of what happened.

8. Why is travel considered an OLM but excluded from the 33.33% calculation?

The OLM final rule clarifies that travel OLMs will continue to be handled in accordance with FAR 31.205-46 and exempts travel OLMs from the 33.33% limitation as well as the price reasonableness determination. The special ordering procedures specifically state that, "Travel costs do not count towards the 33.33% limitation..." (see GSAR clause 552.238-82 *Special Ordering Procedures for the Acquisition of Order-Level Materials*)

9. Why 33.33%? How did GSA arrive at that figure?

GSA determined that a limitation on OLMs was a necessary protection in order to meet statutory requirements. GSA received feedback from industry and ordering activities during the rulemaking process that the cap must be at least 25% to meet certain types of customer requirements, but below 50% to ensure the principle purpose of the order was to acquire a service or product off of the GSA Schedule. GSA also concluded that to be consistent with the Schedules Program, the cap has to be clear, has to be easy to explain to customer agencies, has to be easy for contractors to understand and follow, has to be easy for GSA to conduct needed training, and has to be easy for everyone to remember. Based on these criteria, GSA set the limitation at 33.33%. Please refer to the final rule for additional explanation.

10. Who is responsible for monitoring the 33.33% limitation, contractors or ordering activities?

The ordering contracting officer is responsible for monitoring compliance with the 33.33% limitation.

11. Can some OLMs be handled as open market items instead, to prevent the order from exceeding the 33.33% limitation?

Yes, however ordering contracting officers should keep in mind that adding open market items to a Schedule order for administrative convenience in accordance with the authority of FAR 8.402(f) means that the purchase of these items must comply with all applicable acquisition regulations. See Terms and Conditions, above.

12. If the order is modified, does the 33.33% calculation remain based on the original value at time of award or the modified value?

The 33.33% cap on OLMs must be maintained throughout the order period, including the value of any options or modifications.

13. Are there any exceptions to the 33.33% limitation? For example, what if the Schedule contract-level items in the order are “small ticket items” compared to the OLMs?

There are no exceptions to the 33.33% limitation. If the dollar value of OLMs is high compared to the Schedule contract-level items in an order, this brings into question whether the OLMs are truly incidental to the work being performed.

OLMs, Better Defined

1. Can you better explain the difference between the Order-Level Materials SIN, Ancillary and ODC SINS, and open market items?

Please click [here](#) for a detailed explanation of each.

2. Can an OLM be a non-commercial item?

No. OLMs are purchased under the authority of the Schedules Program, which only allows for commercial items.

3. Can an OLM be for A&E or construction services?

No. OLMs are purchased under the authority of the Schedules Program, which does not allow for the acquisition of A&E or construction services.

4. If a contractor has a product it wants to offer but doesn't have the Letter of Supply that's needed to get it awarded under its Schedule contract, can it be acquired as an OLM instead?

By definition, OLMs are items that are unknown at the time of Schedule contract award. If the product is a “known” item (i.e., one the contractor routinely offers), it should be added to the Schedule contract and a Letter of Supply is required.

However, if a need for the product is identified at the order level and the item isn’t awarded on the Schedule contract, the contractor can offer it as an OLM. Letters of Supply are not required for OLMs.

5. Can an OLM be acquired via FAR 51 Deviation authority?

Yes. FAR 51 Deviation authority can still be utilized by contractors to obtain items under the Order-Level Materials SIN.

6. Can you explain how “subcontractor services” can be considered an OLM?

Per [GSAR 538.7202\(a\)\(1\)](#), OLMs include “subcontracts for supplies and incidental services for which there is not a labor category specified in the FSS contract.” This is rare, but meant for cases where there are services not already covered in an awarded labor category at the Schedule contract level, the service itself is incidental to the work being performed, and the service is not known at the time of Schedule contract award.

7. Is freight considered an OLM?

No. If the freight terms are FOB Destination, then freight is included as part of the price. If the freight terms are FOB Origin, then freight will be included as a separate line item and is not subject to IFF.

Adding the OLM SIN/Solicitation Refresh & Mass Modification

1. Do contractors awarded the Order-Level Materials SIN have an advantage over contractors without it?

GSA highly recommends that contractors add the Order-Level Materials SIN if the contract is under an OLM-authorized Schedule. It is simple and easy to add (as easy as accepting the mass modification) and provides the vendor with maximum flexibility in responding to RFQs. However, total solutions can be provided via various combinations of Schedule SINS, Ancillary/ODC SINS, the Order-Level Materials SIN, the open market item authority in FAR 8.402(f), the FAR 51 deviation, etc. The ordering contracting officer should make award to the contractor whose quote represents the best value, consistent with evaluation criteria in the RFQ.

2. Will ordering activities be able to search GSA eLibrary to see which contractors are awarded the Order-Level Materials SIN and therefore authorized to include OLMs in orders?

Yes. One of the many advantages of having a dedicated SIN for Order-Level Materials is that it will be searchable and displayed in GSA eLibrary just like any other Schedule SIN.

3. What happens if a contractor quotes something as an OLM but has not accepted the mass modification?

Per GSAR clause 552.238-82 (d)(5), "All order-level materials shall be placed under the Order-Level Materials SIN." Contractors are not authorized to quote OLMs unless they have been awarded the Order-Level Materials SIN, which can currently be added only via acceptance of the mass modification. A contractor that quotes OLMs without having the Order-Level Materials SIN awarded under its contract is in violation of the terms and conditions of its Schedule contract. Ordering contracting officers should be checking GSA eLibrary to verify the contractual information provided by the contractor in its quote, to include the award of the Order-Level Materials SIN.

4. Will contractors have to submit an eMod request to add the Order-Level Materials SIN or will all contracts get the SIN via the mass modification?

Currently, the only way to add the Order-Level Materials SIN is via acceptance of the mass modification. The Order-Level Materials SIN will be added to the contract automatically upon acceptance - no additional action is required on the part of the contractor. Contractors will not be able to request the Order-Level Materials SIN via eMod until systems updates are complete, which will be January 2019 at the earliest. GSA therefore strongly recommends that contractors do not decline the OLM mass modification unless certain they will not want/need the SIN before these systems updates are made

5. Do contractors have to accept the CSA mass modification before they will be able to accept the OLM mass modification?

Yes. Contractors must address all outstanding (non-customized) mass modifications, to include the CSA mass modification, before they will be able to act on the OLM mass modification.

6. Is the OLM mass modification mandatory?

No. Acceptance of the OLM mass modification is highly encouraged, but not mandatory. Please also keep in mind that if the OLM mass modification is declined, the contractor will not have the ability to add the Order-Level Materials SIN to its contract until eMod systems updates are completed sometime in 2019.

7. How long will the OLM mass modification be available to the contractor?

The mass modification will remain available until the contractor takes action on it. However, GSA encourages contractors to accept the modification within 30 days of issuance.

8. How will the Order-Level Materials SIN be numbered?

The Order-Level Materials SIN is numbered “[Schedule Number] 500.” For example, the Order-Level Materials SIN under Schedule 71 - Furniture will be 71 500, under the 00CORP - Professional Services Schedule it will be 00CORP 500, and so on.

Indirect Costs

1. Do contractors have to pay IFF on indirect costs?

Yes. As an OLM, indirect costs are considered Schedule contract items and must be inclusive of the IFF.

2. How will contractors support indirect costs if they do not have DCAA or similarly approved rates?

Indirect costs should not be proposed unless it's already the contractor's routine practice to include them when doing business. In the absence of approved DCAA rates, the contractor should support proposed indirect costs with documentation already on-hand.

3. What if a contractor's indirect costs are in the form of a fixed percentage instead of a fixed dollar amount?

Indirect costs must be established under the order as a fixed dollar amount. Indirect cost percentage rates are not allowed. However, contractors can use a fixed-percentage indirect cost rate to calculate a proposed dollar amount for indirect costs, based on the specifics of the order.

Order-Level/RFQ Requirements

1. Who sets the ceiling amount for OLMs?

The ceiling amount is set by the ordering contracting officer when the order is awarded.

2. Who determines whether an OLM is in “direct support” of an order?

The ordering contracting officer determines whether an OLM is in direct support.

3. Under an existing Schedule BPA, can the ordering contracting officer add OLMs/the Order-Level Materials SIN after contractors have added it to their contracts?

Since OLMs by definition are unknown at the time the BPA was established, the flexibility to acquire OLMs to support individual orders *may* be within the scope of existing Schedule BPAs - provided that the underlying Schedule contracts include the Order-Level Materials SIN. Ordering contracting officers will have to determine whether the Order-Level Materials SIN (and the OLMs to be procured under it) are within the scope of the BPA, as established. The inclusion of OLMs in BPA orders cannot alter the primary purpose or scope of the BPA, since OLMs may only be acquired in direct support of work performed under existing BPA SINs.

4. Who makes the determination that OLMs are fair and reasonable, the Schedule contracting officer or the ordering contracting officer.

The ordering contracting officer is responsible for making the determination that all OLMs are fair and reasonable.

5. Who has the final call on scope issues related to OLMs?

The ordering contracting officer makes the final call on all scope issues.

6. When is the contractor required to obtain three quotes?

The contractor must obtain a minimum of three quotes for any OLM that exceeds the Simplified Acquisition Threshold. This is on a per-item basis. Please see GSAR clause 552.238-82 for exceptions.

7. If a contractor is the manufacturer, how would it acquire three quotes for OLMs that exceed the Simplified Acquisition Threshold?

Per the Special Ordering Procedures for the Acquisition of Order Level Materials (GSAR clause 552.538.82 (d)(7)), "If the contractor cannot obtain three quotes, the contractor shall maintain its documentation of why three quotes could not be obtained to support their determination."

8. Are OLMs like open market items, where they have to be invoiced as separate line items and clearly marked?

Open market items that are added to Schedule orders for administrative convenience under the authority of FAR 8.402(f) must be clearly marked because they are non-Schedule items. OLMs are purchased under the authority of the Schedules Program and therefore don't require special labeling.

9. How does the “bona fide need rule” apply to OLMs?

OLMs are only authorized for inclusion in T&M orders and under T&M CLINs in hybrid Fixed-Price/T&M orders. For OLMs, the “bona fide need rule” is applied no differently than it would be for any other T&M order placed under the Schedules Program.

OLMs as T&M CLINs

1. Why can OLMs only be procured under a T&M CLIN?

Order-level materials essentially represent the “materials” in a Time-and-*Materials* (T&M) order. OLMs are only authorized for use in either 1.) a T&M order, or 2.) a T&M CLIN under a *hybrid* order (i.e., an order that is a combination of Fixed-Price and T&M, and has designated CLINs for each). By definition, only T&M allows ordering contracting officers the flexibility to define materials at the order level, i.e., in cases where products or services are unknown at time of contract award.

GSAR clause 552.238-82 (d)(2) states, “Order-level materials are included in the definition of the term “material” in FAR clause 52.212-4 Alternate I, and therefore all provisions of FAR clause 52.212-4 Alternate I that apply to “materials” also apply to order-level materials.” Please reference FAR clause 552.212-4 Alternate I and GSAR clause 552.238-82 for additional details.

2. When is a Determination and Findings (D&F) required for OLMs?

A D&F is required for all orders that utilize OLMs/the Order-Level Materials SIN. FAR 8.404(h) requires preparation of a D&F for T&M (and Labor Hour) orders. OLMs can only be acquired via a T&M order or a T&M CLIN under a hybrid FP/T&M order. A D&F is required for the T&M/OLM portion of all Schedule orders, regardless of dollar value.

