



June 25, 2013

Tom Sharpe
Commissioner
Federal Acquisition Service
U.S. General Services Administration
Washington, DC 20405

Dear Tom:

On June 4, 2013, the General Services Administration (GSA) Office of Inspector General (OIG) issued a report¹ entitled "Improper Management Intervention in Multiple Award Schedule Contracts." The report raises concerns regarding GSA's management intervention in ongoing negotiations of Multiple Award Schedule (MAS) contracts and their subsequent outcomes. We understand that as a result of the audit, the GSA Chief Acquisition Officer will review internal procedures to ensure that all acquisitions are conducted with transparency.

Collectively, members of The Coalition for Government Procurement, Professional Services Council and TechAmerica account for over eighty percent of the sales through MAS and GWAC programs. Our associations are united in our support for a fair, impartial, and transparent acquisition system that delivers best value to customer agencies and the American people. These attributes assure that GSA's industry partners are able to operate effectively and compete on an equal basis for government opportunities. However, we are concerned that the OIG recommendations do not strike the appropriate balance between authority and the accountability needed to make the GSA MAS procurement system work well for all stakeholders.

The OIG report recommended that the Federal Acquisition Service (FAS) Commissioner ensure that the contracting process is independent and free from FAS management interference due to contractor pressure by among other things:

- a. Requiring FAS management not to intervene in contracting actions in response to requests from contractors except for instances of misconduct or other serious administrative issues;
- b. Requiring FAS management to fully document all conversations and correspondence with contractor officials regarding specific contracts and offers, to include such information as date, time, participants, and specific details of information exchanged.

¹ Number A120161/Q/6/P13003, available at <http://www.gsaig.gov/?LinkServID=A6466340-F829-EFFC-E9457DED4C509DB0&showMeta=0>

Our members work successfully with contracting officers on a daily basis to negotiate sound, fair and reasonable contracts that satisfy the needs of customer agencies. Both government and industry contracting officials, however, come to the table with varying degrees of experience, training and communication skills. These variables can dramatically impact the ability to reach agreement, particularly in complex negotiations. Even with the best negotiators, MAS negotiations are complicated by a pricing policy that is outdated, unclear and increasingly inconsistent with commercial practices. At times, the contracting officer, the auditor and the contractor each have different interpretations of the same solicitation or contractual provisions. Moreover, the consequences of a decision can be enormous for GSA, its customer agencies and contractors. For customers, the results determine whether there is a ready source through GSA for mission critical items at fair and reasonable prices. For GSA, the results could be a significant diminution of opportunities awarded through the Schedules. For contractors, the results could be not only contract liability, but also monetary penalties, negative impact on commercial business and lasting damage to corporate reputations. This combination of factors demands involvement by knowledgeable, creative and flexible GSA managers.

We are concerned that the OIG's recommendations and GSA's corrective actions will have a chilling effect on the appropriate role of GSA's procurement managers in the operations of the MAS program. The recommendations create a significant disincentive for managers to step in when their attention and expertise is needed to break through obstacles to successful negotiations. The OIG recommendation that would prohibit management involvement except for "serious misconduct or other serious administrative error" sets an extremely high bar that will inadvertently reduce appropriate GSA management oversight of procurement operations.

Contracting officials must have the ability to act without improper interference. Those officials, along with their managers, must also be accountable for maintaining a government-wide procurement platform that Federal agencies and contractors can rely on to compete for and acquire commercial services and products. An instruction for managers not to engage except for serious misconduct seems to be aimed exclusively at compliance, without regard to the business operations and customer service responsibilities of GSA and its management team. The report would also establish documentation requirements for management conversations and correspondence with industry. In our view, the unintended consequence of implementing this OIG recommendation will be a reduction in needed and valuable communications between agency officials and the contract community. This result is contrary to Office of Federal Procurement Policy and other directives that urge acquisition officials to have early, frequent and constructive dialogue with industry.

We are encouraged that the Chief Acquisition Officer will have a role in reviewing internal processes to ensure that all acquisitions are conducted with transparency. We support that effort and recommend that GSA take the following actions:

- Reduce the need for management intervention by:
 - Clarifying MAS pricing policies;
 - Training contracting officers, contractors and auditors to assure a common understanding of major contractual provisions;
- Speed negotiations by streamlining the solicitation and award processes;
- Encourage appropriate management involvement in MAS negotiations by:

- Establishing an escalation process within acquisition organizations aimed at developing creative resolutions to negotiation obstacles
- Establishing a GSA Schedule Ombudsman to assist with issues not resolved by the acquisition organization;
- Publish policies and procedures for public comment or, at a minimum provide public notice, prior to implementation; and
- Engage our organizations in a Myth-buster dialogue on the issues raised in the OIG report and the GSA implementation actions.

We welcome an opportunity to discuss these recommendations with you. We invite you to contact Roger Waldron at rwaldron@thecgp.org or 202-331-0975 to begin a dialogue between FAS, the Chief Acquisition Officer and our industry organizations on this matter of importance to our members.

Sincerely,



Roger Waldron
President
Coalition for Government
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Shawn Osborne
President & CEO
TechAmerica

Stan Soloway
President and CEO
Professional Services Council

Cc: Anne Rung
Chief Acquisition Officer
U.S. General Services Administration