The Guide to Government Contracts

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INTRODUCTION



Thank you for investing in this guide. We wrote it as a reference for tips on successfully selling and marketing to the lucrative Federal Government.

For years, marketers, like you, have missed so many opportunities within the Federal Government. Why? Lack of knowledge selling to the Federal Government, lack of product(s) being on GSA Schedule, *and/or* lack of a reliable resource to answer questions once your product(s) get(s) on Schedule.

Contrary, to common belief, selling to the Federal Government is not the same as selling commercially. Mistakes, that are erasable in the Commercial world, are not erasable in the Federal Government.

This guide is NOT intended as a step-by-step "How To" manual. It is merely intended to educate you in the Federal Marketplace and hopefully give you some basic and advanced guidelines before you make a mistake.

This "*The Guide to Government Contracts*" was designed for easy reading to quickly give the reader a better understanding of selling to the Federal Government.

A form is in the back of this guide for any comments you may have.

Michael Price Founder and EduTainer

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GENERAL CONCEPTS IN FEDERAL GOVERNMENT PROCUREMENT

1

1. GENERAL CONCEPTS IN FEDERAL GOVERNMENT PROCUREMENT

- 1.1. General Services Administration
 - 1.1.1. The Federal Government's procurement (the act of buying) process is as vast and complex as the Government itself. The Federal agency that oversees procurements worth billions of dollars is the General Services Administration (GSA). GSA is the primary contracting function of the Government. The Federal Supply Service oversees the procurement of all items the Government procures.
 - 1.1.2. GSA directly handles very few procurements; instead, GSA grants Delegation of Procurement Authority (DPA). DPA is the required approval from GSA that the Government agencies need before they can spend allotted funds. Agencies, after receiving a DPA, may conduct procurements themselves. Once an agency has DPA, it has full decision-making power, including selecting the award winner.
- 1.2. Government Regulations and Policies.
 - 1.2.1. A vast number of regulations govern the Federal procurement process. The most encompassing is the Federal Acquisition Regulations (FAR). The FAR contains explicit directions of how Government agencies must conduct procurements; these guidelines apply to all Governments agencies.
 - 1.2.2. There are also agency-specific regulations that supplement, not replace, the FAR. These

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	regulations address additional concerns particular to an agency. The most commonly known is the Department of Defense Acquisition Regulations (DFAR).	
1.2.3.	The Competition in Contracting Act (CICA) of 1984 has had a profound effect on the Government procurement process. The act applies to all procurements and is usually very evident in procurements under \$25,000. The CICA contains guidelines to ensure full and open competition on all procurements.	
1.2.4.	The Buy America Act is an attempt to protect "American" business interests. The Buy America Act requires the Federal Government to buy American products, or those from favored nations. Favored nations are those with whom the U.S. has an acceptable balance of trade. The FAR, Part 25, lists favored nations and stipulations for labeling a product "American Made".	
1.2.5.	The Freedom of Information Act (FOIA), passed in 1966, requires Government agencies to disclose most Federal agency records upon request. Exceptions include classified documents, internal personnel information, internal Government communications, and confidential business information. The FOIA protects, from disclosure, all cost, pricing and financial data that is sensitive. The FOIA has had a great impact on procurement; for example, companies may now receive a copy of competitors' proposals after award has occurred. The disclosure of information has made the	

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	procurement process much more accountable, and therefore there is less opportunity for corrupt practices.	
1.3. Sourc	ces of Information on Government Procurement.	
1.3.1.	There is abundant information published on procurements as required by law. The most notable source is the Commerce Business Daily (CBD), a newspaper that lists all procurements over \$25,000 and schedule procurements over \$50,000. The Commerce Department and the Government Printing Office (GPO) publish the CBD. Any requester may receive it for a small fee. The Commerce Business Daily organizes procurements by categories called Federal Supply Classes. Some examples are, "General Purpose ADP equipment, hardware, software, supplies and support equipment", "Hardware and Abrasives", and "Training". Information included for each procurement is a synopsis of requirements, the expected dollar amount, and the procuring agency.	
1.3.2.	Another source of information on proposed procurements are Bidder's Lists. Bidder's Lists are databases of vendors interested in bidding on Government contracts. Individual agencies maintain their own Bidder's List, and those lists are a primary method of informing prospective Contractors of upcoming buys. To be included on an agency Bidder's List, a company must register with SAM (System For Award Management) website at www.sam.gov. This is an important but arduous	

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	task because there are well over 7,000 such ordering offices in the United States.	
1.3.3.		



SCHEDULE PROCUREMENTS

2. SCHEDULE PROCUREMENTS

- 2.1. Basic Facts About Schedule Contracts
 - 2.1.1. There is only 1 schedule (MAS) in the GSA supply system, including national, international, and regional schedules.
 - 2.1.2. Each schedule covers a product or group of related products, or a particular type of service. Each schedule is for at least a five-year contract period from the date of award.
 - 2.1.3. For each schedule, there is perpetual open season to make an offer or to submit a sealed bid to obtain a contract. This process generally takes approximately 4-6 months.
 - 2.1.4. There is a \$100 guarantee of business on multiple award schedule contracts. The government encourages you to market directly to potential Government users.
 - 2.1.5. If Federal agencies require products or services not covered on a GSA Federal Supply Schedule, each agency must do their own contracting or refer the procurement request to GSA. Currently, virtually any commercially available item has a Schedule.
 - 2.1.6. The Federal Government has many methods of procurement, each with its own regulations and requisites. There are various formats, conditions, and bidding strategies for the different types of procurements. The GSA Schedule is one of the most commonly used procurement methods. A GSA Schedule Contract is a negotiated contract

between a vendor and the Government. It contains pre-negotiated terms & conditions as well as pricing.

- 2.1.7. The advantage of Schedule procurements to the Government and the Contractor is there is no need for further negotiation and/or bidding. After all, the result of the bidding process is a contract, which is exactly what you have when you get a GSA Contract. Therefore, why should you bid to get something you already have? A Government agency may simply place an order on a Schedule Contract for the price indicated. Schedules make it unnecessary for repeating procurement procedures for every Government agency buy. There are also additional benefits to having a Schedule for Contractors. Contractors with Schedules usually do not have to bid against others for Government purchases. Also, Government customers prefer to deal with companies who have a Schedule, even for non-Schedule procurements, because these companies have already passed Government certifications and qualifications.
- 2.1.8. A product manufacturer or a dealer may submit a GSA Schedule proposal. A dealer is a company that does not produce a product but sells and distributes merchandise with the manufacturer's permission.
- 2.1.9. In order for a dealer to receive a Schedule Contract, he must have a Letter of Supply from the manufacturer along with complete financial information outlining sales history and commercial business practices.

- 2.1.10. FAR 52.215-70 states that GSA has the right to examine the books and/or records of any manufacturer who provides a Letter of Supply to a dealer that receives a Schedule Contract where contract sales are expected to exceed \$10,000.
- 2.1.11. If you are a manufacturer and you hold your own Schedule Contract, you do not have to sell direct. GSA provides for you to utilize your resellers to administer your Schedule Contract, thereby reducing your administrative costs.
- 2.2. Preparing a Schedule Proposal
 - 2.2.1. Schedule proposals are a contract proposal, and require extensive information including, but not limited to: A product list, a vast number of certifications showing compliance with Government regulations, and Commercial Business Practices. They include the following information: If the bidder is a manufacturer or a dealer, who pays shipping costs, if there is a prompt payment discount, pricing information, discounts given to classes of customers, and quantity discounts.
 - 2.2.2. The Federal Supply Service bundles products and services into various classifications, each class having its own Schedule. GSA may award Schedules any time after submission. They are effective for five years from the date of award specified by GSA. There are 3 five-year options for a total of 20 years on a GSA contract. Obviously, a timely award allows more opportunity to sell products.

2.3. Evaluation of Proposals

- 2.3.1. The Government evaluates proposals after they receive them. The evaluation process can take an extended period of time because bids must pass many standards before award. The solicited products must meet a Qualifications Requirement. This means the Government may test a product for effectiveness before award.
- 2.3.2. To receive an award, a bidder must be "responsible". This means the Contractor must have adequate resources, ability to fulfill contract obligations, financial stability, and meet other Government standards.
- 2.4. Negotiation
 - 2.4.1. The Government will use the Commercial Business Practices Chart (CBP) to determine who is a bidder's Most Favored Customer (MFC). The Most Favored Customer is a customer or category of customer that receives the lowest price and best terms offered by a vendor. Examples of customer categories include Dealer, Educational Institution, and State and Local Government. The Government customarily requests terms equal to that of the MFC. Companies habitually argue that they give discounts to customers based on commitments to purchase certain dollar amounts. The Government cannot offer any purchase commitments.
 - 2.4.2. Bidders also resist giving the Government MFC pricing because the Government orders in small increments, increasing shipping and handling costs.

Billing becomes more complicated because the Contractor must bill each shipment.

- 2.4.3. The Government will determine if the prices offered are reasonable using one of two methods. The Government will use the Commercial Business Practices for the Test of Commerciality. To "pass", a company must demonstrate sales in substantial quantities of a product at published prices. This proves to the Government fair market prices.
- 2.4.4. If the Commercial Business Practices is unavailable, or the Government rejects it, the Government will ask for cost and pricing data. This data reveals the cost of production of an item; therefore, the Government can determine the percentage of profit. Companies generally do not like to reveal this information because the Government will only allow them a certain percentage of profit.
- 2.4.5. After all negotiation is complete the Government will ask all bidders to submit a Final Proposal Review Letter (FPR) or Best and Final Offer (BAFO) as it had been called for years. This is the last time a bidder may change any part of the bid. After receipt of the BAFO the contracting official will usually award the contract. The Government and the bidder generally settle for a price slightly higher than MFC. The Government recognizes its business, while large over the course of a year, may pose complications for Contractors.
- 2.4.6. Once the Government and bidder complete price negotiations, they must agree on a Maximum Order Limitation (MOL) which is almost always \$500,000.

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An MOL is is a trigger point for an Agency. At this point, the Agency is encouraged to seek additional discounts or better terms and conditions before placing an order.

- 2.4.7. Over the last few years, GSA made it possible to offer spot discounts to government agencies without affecting normal pricing. This means that you can treat each government customer as an individual customer and adjust pricing as you see fit for the situation.
- 2.5. Types of Schedule Awards
 - 2.5.1. There are four main types of Schedules: Single Award Schedules, Multiple Award Schedules, Maintenance and Repair Schedules and New Item Introductory Schedules.
 - 2.5.2. Single Award Schedules: A Single Award Schedule is a contract award where one company has a contract to supply a specific product. This means if an agency wants to purchase one of these items there is only one Contractor. Single Awards are fairly uncommon and usually only for services. These Schedules cover contracts made with one supplier "at a stated price for delivery to a specified geographical area". Most items included in single award Schedules are manufactured according to applicable Federal or Military Specifications or Commercial Item Descriptions. Most of these Schedules contain all information necessary for placing orders directly with the Contractor. Some specify that Contractors have prepared brochures containing additional ordering information, usually dealing with choices of fabrics, colors, and similar

variables. Single award Schedule Contracts result from competitive sealed bidding.

- 2.5.3. Multiple Award Schedules: A Multiple Award Schedule is a contract for similar products or services awarded to more than one Contractor. It is by far the most common Schedule award. If an agency needs a product, it will then get the opportunity to choose from many Schedules. This means that even if a company receives a Multiple Award contract, they are not guaranteed business because other companies have a Schedule for the same or very similar products. These Schedules cover contracts and agreements made with more than one supplier for comparable supplies or services. Contracts, with no guarantee of business, are awarded to offerors supplying the same generic types of items at varying prices. Agencies are thus provided the opportunity to fill their requirements with the lowest overall cost item having the features that specifically meet their needs. All multiple award Schedule Contractors are required to prepare and distribute pricelists to Government activities.
- 2.5.4. <u>Maintenance and Repair Schedules</u>: These Schedules cover repair, maintenance, and rehabilitation of in-use items of personal property. These Schedules are mandatory in all departments and independent establishments in the Executive Branch of the Federal Government. GSA regional offices distribute these price Schedules for each service for which contracts are established. These price Schedules contain a listing of available Contractors, prices, ordering procedures, terms and

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conditions, specifications, and other pertinent details.

- 2.5.5. Each of the eleven- (11) GSA regional offices contracts for services required in the geographical area it serves. Contracts are awarded competitively through sealed bidding, and all are Set-Aside for small businesses.
- 2.5.6. New Item Introductory Schedule Program: The New Item Introductory Schedule is used for items the Government does not know how to place in a Federal Stock Class (FSC). GSA conducts tests to check the effectiveness of the items before Government agencies may purchase them. This Schedule provides the means for new or improved products to enter the GSA Federal Supply System. Applications are made through the nearest GSA Business Service Center (BSC). Items covered under an existing permanent Federal Supply Schedule Contract or any other established supply program will not be considered. After initial screening by the BSC, the application is forwarded to the Federal Supply Service for review and evaluation. This review considers such factors as possible duplication with present supply items, anticipated Government demand, health, safety, and legal requirements. If accepted, the applicant is notified and provided with a solicitation for offers to negotiate a no-guarantee-of-business contract for an initial three-year period. Later, if sufficient demand for an item is generated, procurement is transferred to a regular permanent supply program, and open to competition.

2.6. Sales Opportunities within the Federal Government

- 2.6.1. Although knowing the rules and regulations is the first step to successful Government marketing, they are not going to do you any good if you do not know what to do with them. Chances are your home office receives a lot of opportunity leads. If your home office is Minneapolis, Kansas City, etc., then you may not find out about potential opportunities until it is too late to do anything about them. Only your own destiny will give you the opportunity to make your fortune. Opportunity is Knocking!
- 2.6.2. Bidders Mailing List. (FAR 14.205). There are over 7,000 procurement offices, each of which is supposed to maintain a Solicitation Mailing List. This list, which is broken down by service/product category (FSC), is comprised of vendors who have applied to each procurement office for inclusion on the list. Whenever a procurement office has a requirement, they are supposed to send a copy of the IFB or RFP to the vendors on the list (or call them if doing an oral solicitation) for that product/service category. Because the list in some offices is very extensive, many times they will rotate the list to determine who will receive a bid package. Therefore, it is important to follow up on procurement leads and make sure you are included in the mail out.
- 2.6.3. To be included in the database, you must register with the SAM at <u>http://www.sam.gov/</u>. The GSA Regional Office for your area will assist you in locating these procurement offices. Being in the database is important because procurement offices

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often send solicitation documents to the vendors in the database *before* the requirement is even advertised in the Commerce Business Daily (CBD). Thus, if you are in the database, you will have a head start in preparing your response as compared to those vendors who are not and have to wait for the CBD announcement.

- 2.6.4. Commerce Business Daily. (FAR 5.2). (FIRMR 201-32.206). The Department of Commerce publishes the CBD each workday. The CBD contains announcements of procurement opportunities, which are expected to exceed \$25,000. GSA schedule buys are no longer required to appear in the CBD. You will note that the CBD is broken down into categories of equipment/services (FSC); but if you read only the category in which your equipment/services fall under, you are more than likely going to miss out on some opportunities. Many times, the synopsis is misclassified either intentionally or unintentionally. By tracking the CBD, you are not leaving your fate in the hands of a rotating bidders mailing list.
- 2.6.5. Bulletin Board. (FAR 5.101). Each procurement office is supposed to maintain a bulletin board upon which procurements are posted prior to award. You have to visit each office and ask to see the bulletin board (it is supposed to be in a public place). Needless to say, this means that you will have to visit each procurement office at least once a week to read the board. Word of advice: all offices are not equipped with a bulletin board even though they are supposed to. If you complain about the lack of a

bulletin board to the right people, they will install one.

- 2.6.6. Telephone Directories. Each agency has its own telephone directory that is available to you. All you have to do is ask the agency for one or contact the GPO and purchase them. Through the directory, you can call the procurement offices as well as many operations offices. GSA also publishes a directory of major Information Resource Management officials for the entire federal sector. These directories will provide a first point of contact giving you the opportunity to set up appointments to give your pitch and offer your services to fulfill the agency's requirements.
- 2.6.7. How to Sell to... Almost every agency publishes guidance to the commercial sector on how to sell to that particular agency. These are usually titled, "How to Sell to the Treasury, DoD, HHS, etc.," and are basically a brief description of the agency's mission and the types of products/services they procure. Contact the agency procurement offices to see if they have such a brochure.
- 2.6.8. Personal Contact. As a salesperson, you already know the value of face-to-face contact with potential customers; the same holds true when dealing with the Government. However, you have to be much more diplomatic and careful not to get into a situation that appears to border on what the Government considers being "improper business practices". They are not the same as a commercial customer and should not be treated the same way. All Government personnel, particularly procurement

personnel, have strict rules of conduct they must abide by. Personal contact has all the advantages that you are already aware of, but also comes with a built-in fear on the part of many Government employees who do not want to chance being criticized for 'standard of conduct' violations. Thus, you should avoid putting the Government employee in a compromising situation. In fact, the simple offer of taking a Government employee to lunch may backfire on you because of this fear factor; they may think you are trying to bribe them and will avoid you rather than talk to you. On the other hand, if, when you visit the Government office you present to an entire office as opposed to a single individual; then chances are that the fear factor will not come into play and you will have built up some good will. Also, keep in mind that the most important people to talk to are in the technical shop; they are the ones who generate the requirements. Without the requirement, the procurement staff is not going to do you any good. It is important not to overlook the procurement shop, because in the long run they will be the people who will sign the contract. Without their signatures, you do not have a sale. Remember that whether you are talking to the contracting shop or the technical user, you are there to help them and save the taxpayers' money. That is what they are interested in hearing about, not how this sale will meet your quota.

2.6.9. Unsolicited Proposals. (FAR 15.5). Once you have talked with an agency's procurement shop and the technical users, and have established a working rapport, you might become aware of something that

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the agency needs but hasn't yet realized. In this event, you can submit an unsolicited proposal and hopefully be awarded a sole source contract to satisfy the need. Quite often, someone in the user group who realizes that the agency has a need, but hasn't yet figured out how to resolve the problem initiates this whole process; thus, he may ask you for assistance in coming up with a problem resolution. Remember though, in order to submit an unsolicited proposal, you have to show the agency a unique and innovative idea for solving their problem. They will be looking for something only you can provide. Once you have expressed your solution to the user group, you can then submit an unsolicited proposal. Needless to say, before an operations type confides in you, he will first have to be confident in you (rapport again).

OPEN MARKET PROCUREMENTS

3

3. OPEN MARKET PROCUREMENTS

- 3.1. Invitation for Bid (IFB)
 - 3.1.1. There are many methods of procurement in addition to the Schedules, and one of the most commonly used is an Invitation For Bid (IFB). The Government uses an IFB when it wants to have sealed bids and more than one proposal is expected. There are two types of IFBs One and Two Step. The One Step IFB is a price shoot out. A tight set of specifications is advertised and bids submitted. The Government awards the contract to the lowest responsive bidder. One Step IFBs are used only for commodity items like microcomputers.
 - 3.1.2. A Two Step IFB is used when the Government does not have comprehensive specifications. In Step One, prospective Contractors are asked to send in technical proposals but no pricing data. The Government evaluates the proposals to see if they are technically acceptable. In Step Two, bidders who have submitted technically acceptable proposals are asked to submit pricing information. After evaluation of Step Two, a contract is awarded to the lowest responsive bidder.
 - 3.1.3. Both One and Two Step IFBs are awarded without negotiation. It is therefore imperative that companies initially offer the lowest bid in order to receive an award.

- 3.2. Request for Proposal (RFP)
 - 3.2.1. Request for Proposals (RFP) are another type of Open Market procurement. A RFP is a tight set of specifications for which bidders are asked to submit their best technical proposal and price. This method of procurement is used when the Government is aware of a problem but is open to various possible solutions; aspects of the contract are negotiable.
 - 3.2.2. The quality of the technical solution is the paramount consideration in an RFP, not price. Prospective Contractors concentrate more on providing a proper solution, although eventually the bidder, who can solve the problem most effectively, for the lowest price, will receive the contract.
- 3.3. Request for Quotation (RFQ)
 - 3.3.1. Requests for Quotations (RFQs) are used for acquiring information on current technology and/or pricing. The Government does not often award a contract after soliciting a RFQ, but it can if the procurement is under \$100,000. The information acquired through the RFQ is sometimes used to write new, tighter specifications and the procurement is then re advertised as a RFP. It is advantageous for vendors to submit information for a RFQ even if there is no award, because their proposal could influence the new specifications and help them win the award after re-advertisement.
- 3.4. Small and Simplified Procurements
 - 3.4.1. There is an entirely separate procurement process that may be used for purchases under \$25,000, which are classified by the Government as "Small

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Purchases". Competition requirements are altered and competitive quotations are not always necessary if the contracting official considers the price "reasonable". The Small Procurement program is used, for example, to prevent the Government from spending \$1000 to save \$200.

- 3.4.2. There are four important simplified procurements, the first being a Blanket Purchase Agreement (BPA). BPAs are a type of Small Purchase, which help reduce the cost of filling repetitive requirements. The BPA is like a credit card and agencies simply order items from the Contractor at a set price. There are dollar limitations and only authorized individuals may purchase items.
- 3.4.3. An Imprest Fund is a cash fund for purchases under \$1,000. An authorized official at an agency dispenses money when it is considered justified.
- 3.4.4. Purchase Orders (PO) are another simplified purchase procedure. Agencies initiate a PO and send it to a vendor. Once a vendor signs the PO, it becomes a binding contract. In most cases, price is specified on a PO.
- 3.4.5. The Government also has a credit card program. Certain Government officials have VISA cards with which they may make purchases for up to \$25,000. Others have much higher purchasing power.

3.5. Set-Asides

- 3.5.1. The Government has Set-Aside contracts for prospective bidders who qualify as a Small Business or Small and Disadvantaged Business. The Government has a Standard Industrial Classification Code for industries. Each industry classification has a set number of employees or revenue for being classified as Small. If companies fall under the indicated dollar amount or employees, they are considered small.
- 3.5.2. There is also a Set-Aside program for Small and Disadvantaged Businesses called the 8(a) program. Disadvantaged Businesses are those owned by certain economically disadvantaged groups (See Glossary - Small and Disadvantaged Business or 8(a)). Federal Government Agencies are instructed to 'set aside' a certain percentage of their budget to 8(a) firms and Small Businesses.
- 3.5.3. The Government uses Set-Asides to help businesses that may not succeed without indirect assistance from the Government.
- 3.6. Sole Source
 - 3.6.1. Sole Source contracts are those awarded without competition because the contracting agency believes there is only One Responsible Source, making competition impossible. Any Sole Source contract must be accompanied by massive written justifications explaining why there is a need for a contract of this nature. Most often Sole Source contracts are awarded for research and

development, because only one source has the capacity to conduct the research.

- 3.6.2. The *Competition in Contracting Act* of 1984, put severe restrictions on Sole Source contracts, making them much more difficult to award.
- 3.7. Unsolicited Proposals
 - 3.7.1. All the previously mentioned procurements are awarded after the Government has solicited its needs. Therefore, these procurements are called Solicited Procurements. The Government also awards Unsolicited contracts. A vendor may identify a need before the Government has solicited a proposal. The vendor may write a proposal and give it to the Government. If the Government feels the proposal is worthy, they may award a contract. With the advent of CICA, the Government is far more likely to advertise awarding a contract.

COMPETITION REQUIREMENTS AND AWARD

4

4. COMPETITION REQUIREMENTS

4.1. Full and Open Competition

- 4.1.1. The FAR requires competition for nearly all procurements. Competition in its most complete form is called Full and Open Competition. This means all prospective Contractors are given an opportunity to bid on Government procurements. In order to achieve Full and Open Competition, procurements must be properly advertised and consideration given to all bids.
- 4.2. Full and Open Competition After Exclusion of Sources
 - 4.2.1. In this type of competition, certain groups are excluded from bidding. There is then competition between those who are eligible to bid. An example of Full and Open Competition after Exclusion of Sources is a Set-Aside program. All sources that qualify for a specific Set-Aside may compete for it.
- 4.3. Other than Full and Open Competition
 - 4.3.1. There are several circumstances where the Government will allow for Other than Full and Open Competition. These include Unusual and Compelling Urgency, Only One Responsible Source (Sole Source), and when national security is at stake. In these circumstances, the Government may award a contract without following normal competition guidelines. Other than Full and Open Competition typically means only one source is solicited.

4.4. AWARD

4.5. Contract Types

- 4.5.1. There are many types of contract awards offered by the Federal Government. Each one fulfills a distinct Government need. Fixed Price Contracts have either a price, which allows for no adjustment or one that allows for price adjustment under specified conditions. These contracts have contingencies for raising or lowering a price under certain, predetermined conditions.
- 4.5.2. A second contract type is the Cost-Reimbursement Contract. There are many variations of this contract, but most of them involve reimbursing a Contractor for costs incurred. Cost-Reimbursement Contracts are often used when the total cost of a contract is indeterminable until it is completed, for example, construction.
- 4.5.3. Incentive contracts are contracts that reward higher profit to a Contractor for meeting a stated goal. The goal might be for more advanced technology or greater delivery performance. The incentive bonus can be structured in many different ways, depending on the needs of the Government and the Contractor.
- 4.5.4. Indefinite Delivery Contracts are used when the Government does not know the exact delivery times or quantities of needed products. There are three types of Indefinite Delivery Contracts: Definite Quantity Contracts, Requirements Contracts, and Indefinite Quantity Contracts. Definite Quantity Contracts guarantee the Government will buy a certain quantity of products, but delivery time and

location is flexible. GSA contracts will probably replace these contract vehicles within 5-years.

- 4.5.5. A Requirements Contract specifies participating Government agencies must order the included products, upon need, from that Contractor. For example, if a company has a Requirements Contract with the Department of Education for keyboards, every time the Department of Education needs a keyboard, they would order it from that contract.
- 4.5.6. An Indefinite Quantity Contract allows the Government to order products, when needed, from a contract for a specified time period. There is usually a minimum and maximum order amount.
- 4.6. Protest
 - 4.6.1. If a bidder feels that a contract award's integrity has been compromised, they may file a protest with either the General Accounting Office (GAO) or the General Services Board of Contract Appeals (GSBCA). The appeal must be filed in a timely manner, usually ten days after the award. The contracting officer must also be informed of the appeal.
 - 4.6.2. The complaining concern can ask for a Suspension Hearing to stop the award of a contract before protest procedures are completed. If the board rules to stay the procurement, it is not awarded until after protest proceedings are completed. An exception is when there is Public Exigency (an emergency situation) or the contract has already been awarded or is less than thirty-days from award.

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4.6.3. Protests may involve a formal hearing, or an official may review the case. A decision on the merits of a protest is issued within forty-five days after the protest is filed. If it is decided that regulations were violated, the complaining party can receive reimbursement for the costs of filing the protest, and bid and proposal preparation. If the protested contract has already been awarded, it may or may not be re-awarded.



CONTRACT ADMINISTRATION

5. CONTRACT ADMINISTRATION

5.1. Documentation Requirements

5.1.1. Once a contract is effective, a Contractor is required to keep records of transactions between itself and the Government. Contractors are required to maintain information on finances, supply acquisition and other contract-related information. The records must be kept for a specified time period after the contract is completed, usually three years.

5.2. Payment

- 5.2.1. The Government may pay Contractors in many ways depending on the type of contract and the size of the order. There may be advance payments, installment payments, pay based on costs, or one of many other payment plans.
- 5.3. Government Modifications
 - 5.3.1. Once awarded, there are provisions for modifications of a contract. Modifications allow the Government the opportunity to change the contract scope should the Government's needs alter. There are also stricter provisions for Contractor modifications.
- 5.4. Price Reduction
 - 5.4.1. Government contracts contain a Price Reduction Clause. The clause states if a Contractor lowers their discount for their MFC during a contract's effective period, they must offer the same discount to the Government. For example, the Government negotiates and awards a contract to buy paper clips for \$.99 per box. If the Contractor decides to sell

the paper clips for \$.83 per box to their MFC or category of customer, the company must report the price reduction to the Government; not doing so is a violation of the law. Spot reductions discussed earlier are excluded.

5.4.2. A new feature of the five-year Schedules is the Economic Price Adjustment (EPA) or price increase. After the first 12 months of your contract, you can raise your prices a maximum of 10%. After that, a minimum of three months must pass before the next increase.



AUDITS

6. AUDITS

- 6.1. Conditions for Audit
 - 6.1.1. The Government may choose to audit any contract, within three years of its expiration or date of last payment, whichever is later. Audited contracts may be random selections, or specifically chosen because the Government suspects a discrepancy with the contract.
- 6.2. Information Required for Audit
 - 6.2.1. Government auditors have the right to full disclosure of books and financial records relative to the audited contracts and only those contracts.
- 6.3. Schedule Audits
 - 6.3.1. Audits are conducted on selected Schedule Contracts to determine if contract pricing regulations have been violated and the Industrial Funding Fee (IFF) is being paid. There are two major types of violations: defective pricing information and price reduction omissions, i.e., violations. When auditing pricing information, the Government checks to see if the information provided was current, complete and accurate. Dealers' pricing data is of particular interest to the Government because dealers are submitting data that they have received from manufacturers. The Government receives this pricing information indirectly, so it is viewed with some suspicion.
 - 6.3.2. Contractors are required to pass on to theGovernment any price reductions to MFCs. If there have been additional discounts above and beyond

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those disclosed, the company is in violation of the price reduction clause. The Government will audit contracts to make sure Contractors conform to this rule.

- 6.4. Open Market Procurement Audits
 - 6.4.1. Audits performed on Open Market procurement contracts are usually performed on Cost-Reimbursable contracts. The Government audits Cost-Reimbursable contracts to assess if the costs submitted by Contractors are in fact, the costs incurred.



MARKETING STRATEGIES

7. MARKETING STRATEGIES

There are many strategies, which may be utilized to successfully market products to the Government. The following are some general guidelines.

- 7.1. Selling With A GSA Schedule
 - 7.1.1. A pre-award: One that is awarded before the effective date of that year's Schedule, is helpful. Although a Contractor cannot take orders before the contract's effective date, a pre-award allows Contractors to contact customers and set up a marketing program before they can sell. Therefore, no selling opportunities are lost.
 - 7.1.2. It is imperative for Contractors to get copies of their Schedule into the hands of buying officials; GSA will not do this for Contractors. There are literally thousands of buying officials, and the more that have a copy of the Contractor's Schedule, the more opportunity for sales.
 - 7.1.3. Contractors should add as many products as possible to their Schedule. Starting April 1, 1996, GSA has relaxed the requirement that all orders placed against a GSA Schedule be "Contract Specific". Open market items may be purchased on a Not Separately Priced (NSP) basis and may not be a significant portion of the Schedule order.
 - 7.1.4. Large Government Contractors with cost reimbursable contracts can also purchase items from Schedule to help them complete Government

contracts. Some of the many companies included are General Electric, Grumman Data Systems, Boeing, EDS, CACI and Foreign Military Sales. The authority for this is granted under FAR part 51.

- 7.1.5. Selling to the Military community requires some special techniques. First, select an installation and ascertain what activities are on the installation. It is very important to meet the Competition Advocate (small business representative) on a military installation. The Competition Advocate will have abundant knowledge regarding the procurement officials located on the installation, what products they are expected to purchase over the next year, and what equipment is already installed.
- 7.2. General Selling Techniques
 - 7.2.1. There are several strategies, which are helpful regarding Open Market bids. Schedule submissions can be turned in and later amended, but Open Market bids must be error and omission-free upon submission in order to be considered for award. When delivering proposals to the submission point, it is essential to get a stamped receipt. The receipt will prove the submission was received and that it was received on or before the due date.
 - 7.2.2. It is important to be on as many agency specific Bidder's Lists as possible. This is the best way to assure you will be informed of upcoming procurements.
 - 7.2.3. It is crucial to identify budgets and tailor your marketing to them. If one agency or installation is planning on spending three times all others

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combined, concentrate on the larger sales opportunity.

- 7.2.4. Finally, it is essential to know the FAR regarding contact with Government buying officials. It is illegal for a procurement official to receive anything over a \$5.00 value from marketing representatives. Offering gifts is illegal and will result in criminal and/or legal action.
- 7.3. Other Selling Techniques
 - 7.3.1. Besides selling directly to the Government, there are also other selling techniques that can achieve the same result by approaching the sale from a different perspective. In fact, many companies sell using one of these methods totally, and are fairly successful in their efforts. Consequently, there is no reason that these methods can't work for you, too.
 - 7.3.2. Selling Through Dealers/Resellers. The Authorized Government Reseller (AGR) program was developed by MarketUS, LLC. to assist the GSA Contract holder in obtaining a wider presence in the Government. The program works very simply. The manufacturer can choose to take orders direct or let them "pass through" to a dealer or agent. This program has proven very successful for many companies.
 - 7.3.3. Selling Through 8(a) Companies. An 8(a) firm is a small disadvantaged (minority owned) business. As such, it receives selective treatment from the Government and results in a sole source procurement. If you can get an 8(a) firm to represent your product line, then you will more than

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likely make sales. In fact, many 8(a) companies receive contract awards from the Government, and then turn right around and subcontract with another company that is not an 8(a). If you turn out to be this other company, so much the better.

- 7.3.4. This 8(a) program is run by the Small Business Administration, and has far reaching effects on every agency. In fact, such political pressure is being exerted by Congress that the SBA is literally forcing some agencies to procure multi-million dollar IT contracts with 8(a) companies. (How many small minority-owned IT companies do you know that can handle a multimillion-dollar contract?). If you have a good relationship with several 8(a) companies, you too can do large amounts of business and with an additional benefit as well. The 8(a) insulates you from most of the Government red tape and headaches.
- 7.3.5. Selling to Prime Contractors. In the high-tech area, not many companies make all of the products to satisfy a major procurement. Consequently, for a company to effectively bid on a major procurement, they will have to Subcontract with other companies to supply some of the products. The Prime Contractor, who is dealing directly with the Government, will subcontract with you to supply some of the equipment. As you see, dealing with a Prime Contractor could be very beneficial for your sales sheet.
- 7.3.6. What we're trying to say is that it is essential for you to cultivate relationships with several firms that historically act as prime Contractors. Some

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examples are EDS, MMDS, CSC, PRC, BDM, among others. Lists of these type companies can be found in Association publications such as Signal Magazine AFCEA, ADPA and National Defense Magazine. An increasing percentage of Government business is being done through Primes who act as facility managers, turnkey facilitators, and systems integrator; so get on the bandwagon now, before everyone else does.

SUMMARY OF GUIDELINES TO REMEMBER

8

8. SUMMARY OF GUIDELINES TO REMEMBER

- 8.1. Do's:
 - 8.1.1. ALWAYS ADHERE EXACTLY to the specific terms and conditions of your GSA Schedule Contract when quoting or accepting GSA contract orders. If your GSA Schedule Contract number is specified on a quote, purchase order, or contract, all prices terms, and conditions of the GSA Schedule Contract apply. If the GSA Schedule Contract number does not appear, it is an open market procurement and NONE of the terms and conditions apply.
 - 8.1.2. **ALWAYS** insure that your GSA Contract number is placed on the Government order. Without this number, IT IS NOT a GSA Contract sale.
 - 8.1.3. **ALWAYS** insure that the purchase order or contract is issued in the name of your company. If you are a reseller and your firm is so authorized, then the order or contract would be issued in the name of your company and in care of your firm's address only. Unless this condition is adhered to, an invoice can not be issued, and you will not be compensated.
 - 8.1.4. **ALWAYS** forward a copy of the GSA Government Pricelist to any Government employee who requests it.
 - 8.1.5. DO include the appropriate conditional clause in any quote of GSA pricing given to Prime or Subcontractors, pursuant to FAR Part 51.
 - 8.1.6. When competition dictates, RFQs, IFBs and RFPs can be bid at any price required to win the business.

- 8.1.7. **DO** mention the availability of your GSA contract pricing in all marketing correspondence, both verbal and written, to Government prospects.
- 8.2. Don'ts:
 - 8.2.1. **DO NOT** accept any GSA purchase order for products, services, maintenance, or spare parts at any price or terms other than those currently specified in your GSA Schedule Contract. Failure to adhere to specified pricing or terms can result in serious consequences for your company.
 - 8.2.2. **DO NOT** accept a GSA order for any product that is not currently specified in your GSA Schedule Contract.
 - 8.2.3. **DO NOT** sign an IFB or RFP without specific written authorization from an officer of your company.



CONCLUSION

9. CONCLUSION

The Federal marketplace is as complicated as it is lucrative. However, having the proper knowledge, tools and a "reliable" source of information, will lessen the complexities.

Important first steps must be taken long before you attempt to penetrate the Federal Government. We believe that the first and most important step in achieving success in the Federal Government is having a General Services Administration (GSA) Schedule Contract. This is the most lucrative of contracts because it is Multiple Award; meaning competition is limited, because pricing is based on your Most Favored Customer (MFC). With a GSA Schedule Contract, any agency or authorized Prime Contractor can use this contract to purchase goods and/or services up to the Maximum Order Limitation (MOL). This *soft* ceiling is usually set at \$500,000 per order. This is the easiest way for an agency to buy what they want, from whom they want, when they want. The contract period runs for five years in most commodity groups. The complexity of preparing and negotiating your offer is our primary business, and we are here to help you maximize your sales to the Federal Government.

MarketUS can provide you the following services, to help maximize your exposure within the Federal Government marketplace:

- GSA Schedule Services
- Data Collection and Preparation
- Proposal Submission
- Clarifications and Negotiations
- Contract Award and Proof Approval
- Publication and Printing
- GSA Schedule Distribution
- Amendments and Modifications
- Training
- GSA Advantage

- 8a Teaming Arrangements
- Marketing Services
- Bidders Mailing Lists
- Funding and Financing
- Consultation
- Prime/Sub Contract Agreements
- Procurement Office Database
- Freedom of Information (FOIA)
- Client Status Meetings
- Web site development and hosting

For more descriptive information on any of the above-listed services, please see our World Wide Web site, call, write or email:

MARKETUS, LLC.

ATTN.: New Business Manager 1714 Claw Court Venice, FL 34293 Boca Raton, FL 954-636-3232 web: www.MarketUS.com email: mprice@MarketUS.com

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GLOSSARY

10. GLOSSARY

8(a) - Name given to "Small and Disadvantaged" companies by the Federal Government. Companies considered "disadvantaged" are those owned by Asian- Indian Americans, Asian-Pacific Americans, Black Americans, Hispanic Americans, Sub-Continent Asian Americans or Native Americans. The requirement for classification as a Small Business varies from industry to industry and is usually based on the number of company employees or volume of business.

Award - Receiving Government contract.

Balance of Payments Program - FAR 25.3 - Regulations for Government acquisition for products to be used outside the U.S. American made products are given preference, but there is allowance for purchasing foreign goods.

Best and Final Offer (BAFO) - FAR 15.611 - After bids are received by the Government, all vendors deemed competitive by the contracting officer are asked to submit a BAFO. At this time the vendors may change any aspect of their bid in hopes of receiving a contract. Upon receipt of the BAFO, the Government will select the most advantageous proposal.

Bidder's List - FAR 14.205 - Government database of vendors who are informed when a contract will be awarded for which the vendor might want to bid. There are agency specific and central databases. See Standard Form-3038.

Blanket Purchase Agreement (BPA) - FAR 13.2 - Simplifies filling repetitive purchases because it eliminates the need for repeating purchase paperwork. It works like a charge account, i.e. authorized agency officials "charge" merchandise. The dollar amount spent must not exceed the small purchase agreement limits.

Buy America Act - FAR 25.2 - Requires the US Government to give preference to domestic products and those of favored nations over foreign products.

Centralized Mailing List - (CML) - List used to inform prospective Contractors of upcoming Government buys. It can be used by all Government agencies.

Commerce Business Daily (CBD) - FAR 5.101 - Daily newspaper produced by the Commerce Department and the Government Printing Office. It lists all open market procurements exceeding \$25,000 and Schedule procurements over \$50,000.

Competition in Contracting Act (CICA) - Passed in 1984 to help ensure the Government receives a fair price for merchandise and services. Also helps ensure all qualified companies interested in bidding are given the opportunity to do so.

Cost Analysis - FAR 15.805-3 - Review and evaluation of the cost elements and proposed profit of Contractors and pricing data.

Dealer - A company who sells products to the Government that they do not manufacture.

Delegation of Procurement Authority (DPA) - Ability of GSA to delegate purchasing authority directly to an agency. The Agency Procurement Request (APR) describes the agency's requirement. This information may be used to assess an upcoming Government proposal and is available through Freedom of Information Act.

Discount Schedule Marketing Data (DSMD) - Data submitted in Schedule proposals which includes whether the bidder is a manufacturer or a dealer, who pays shipping costs, if there is a prompt payment discount, pricing information, discounts given to classes of customers, the discount offered the Government, and if quantity discounts are offered. This information allows the Government to ascertain who is a company's Most Favored Customer.

Favored Nation - Any nation whose products are treated on equal ground with U.S. made products.

Federal Acquisition Regulations (FAR) - Regulate purchasing procedures for all Federal Government activities. The FAR are explicit instructions of how procurements are to be conducted.

Federal Information Resources Management Regulation (FIRMR) - Regulations specifically written for contracts involving automatic data processing or telecommunications equipment.

Federal Supply Schedule - (FSS) - Schedule that includes all items except data processing and telecommunications equipment.

Final Proposal Review (FPR) – See BAFO above. This is a new term added in 1998.

Free on Board -(FOB) - Term used to describe who pays shipping costs. Example, FOB Destination means that the seller pays shipping.

Freedom of Information Act (FOIA) - FAR 24.202 - Requires disclosure of most Federal agency records. This can be used to check who received a contract, the conditions of the contract and pricing information as well as other items of interest.

Full and Open Competition - FAR 6.1 - Government policy that all responsible vendors who would like to bid are given the opportunity to do so. This policy is rescinded for Set-Aside contracts or in unusual situations.

General Services Administration (GSA) - The primary contracting organization for Federal agencies. GSA negotiates Schedule Contracts, grants Delegation of Procurement Authority, and buys and disburses items.

GSA Schedule - Negotiated contract between a vendor and the Government that is effective for a certain period of time. The Schedule helps agencies expedite purchases because further negotiation is not needed.

Information Resource Management Schedule - (IRMS) - Schedule which exclusively includes data processing and telecommunications equipment.

Imprest Fund - FAR 13.4 - Petty cash fund used for purchases under \$1,000.

Invitation for Bid (IFB) - FAR Part 14 - Used for a procurement with a sealed bid. Proposals are solicited and then evaluated, completely by price. There is also a Two Step IFB: In the first step vendors are asked for technical proposals for a specific problem. They are then asked to submit a sealed bid based on the specifications selected from Step One.

Maximum Order Limitation (MOL) - Maximum dollar amount a federal agency can purchase from a Contractor per order.

Most Favored Customer (MFC) - Customer or class of customer who receives the most favorable terms from a company.

Multiple Award Schedule - FAR 38.102-2 - Negotiated Schedule Contract for a product(s) awarded to multiple vendors who will supply products or services through the GSA Schedule to requesting Government agencies.

New Item Introductory Schedule - FAR 38.102-3 - Used to introduce new products which the Government does not know how to classify into the Federal Supply system. New items must first be evaluated by GSA before the possibility of Government purchase.

Office of Management and Budget (OMB) - Agency that oversees budgetary policy.

Price Reduction - FAR 14.201-7 - GSA Contractors must lower their GSA price for a product, if a price reduction occurs within the contract period for the Most Favored Customer or class of customer, or if there is defective pricing data.

Procurement - Name for the process by which the Government purchases products.

Protest - FAR 33.1 - Written objection to a solicitation for a proposed contract or to an award of a contract.

Purchase Order - FAR 13.5 - Government offer to buy certain supplies or non- personal services and construction from commercial sources upon specified terms and conditions. The total amount must not exceed the small purchase limit of \$25,000.

Qualification Requirement - FAR 9.2 - Requirement that testing or other quality assurance demonstration be completed before award of contract.

Request for Information (RFI) - The Federal Government issues an RFI to ask vendors for information on possible solutions to a problem, or pricing information. There is no contract awarded.

Request for Proposal (RFP) - FAR 15.4 - RFPs are a method of procurement in which the Government advertises a tight set of requirements for a problem, and vendors respond with a solution. Almost all aspects of an RFP are subject to negotiation. Most often the superior technical solution receives the award, not the vendor with the lowest price.

Request for Quotation (RFQ) - FAR 15.4 - An RFQ is used by the Government to acquire information regarding price, delivery or other market information from prospective Contractors. A contract may be awarded after issuance of an RFQ if it is under \$25,000.

Requirements Contract - FAR 16.503 - Government agencies are required to place orders for specific items, upon need, from a specific contract. There is no guarantee the Contractor will receive orders.

Responsibility Determination - FAR 9.104-1 - Government determines if a bidder would be able to fulfill the obligations of the contract for which they have placed a bid. There are many criteria, including: Adequate financial resources, ability to comply with commitments, satisfactory performance record, etc.

Sealed Bidding - FAR Part 14 - Vendor bids are not made public until after award. This is designed to create greater competition.

Set-Asides - FAR Part 19 - Government contract with less than full and open competition. These contracts are "set aside" for specific groups, i.e. Small Businesses, and Small and Disadvantaged Businesses.

Single Award Schedule - FAR 38.102-1 - Negotiated contracts with a single vendor to supply a product.

Small Business - FAR Part 19 - Business which meets requirements to be a Small Business. Businesses are classified as "Small" by the number of employees or revenue. The number of employees or revenue to qualify as a "Small Business" varies from industry to industry.

Small and Disadvantaged Business - FAR Part 19 - An 8(a) firm. Companies considered "disadvantaged" are those owned by Asian-Indian Americans, Asian-Pacific Americans, Sub-Continent Asian Americans, Black Americans, Hispanic Americans, or Native Americans. The requirement for definition as a Small and Disadvantaged Business varies from industry to industry and is based on the number of company employees or revenue.

Small Business Administration - A Federal agency that administers all of the programs authorized by Federal law to aid and assist small businesses.

Sole Source Contracting - FAR 6.302-1 - Used when an agency feels there is only one vendor who can fulfill Government requirements so there is not competitive bidding. Massive written justifications must accompany a Sole Source contract. The CICA of 1984 greatly reduced the use of sole source contracting.

Solicited Proposal - A vendor proposal given to the Federal Government after the Government has advertised its needs and asked for responses.

Specification or Spec - Set of standards a bidder's product or service must meet in order to qualify for a procurement.

Standard Form 129 - (SF-129) - Obsolete.

Standard Form 3038 - (SF-3038) - Form prospective Contractors fill out to be included in agency specific databases. The databases are used to inform prospective Contractors of upcoming proposals for which they might want to bid. This form must be sent to each agency for which the vendor would like to receive information on proposals.

Standard Industrial Classification Code (SIC) - The Government classifies industries and then each class is given a code. SIC indicates the number of employees or revenue required in that industry to be considered a Small business.

Unsolicited Proposal - A vendor proposal submitted to the Government without prompt from the Government. A vendor may do this when they feel they have a solution to a problem the Government has yet to identify.

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READER COMMENT FORM

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