GSA Multiple Award Schedule Contractor Assessments, Common Compliance Challenges & Navigating an Audit

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June 25, 2018
GSA Multiple Award Schedule Contractor Assessments & Common Compliance Challenges
Importance of Contract Compliance

➢ **GSA Strategic Goal**
Establish GSA as the premier provider of efficient and effective acquisition solutions across the Federal Government

➢ **FAS Initiative**
Provide trusted and compliant sources of supply to our customers
Objective - To Understand:

- Contractor Assessment Focus Areas
- Common Compliance Challenges

The US federal government is the largest customer in the world... make them yours.
## Areas of Focus

**IOA - Contract Compliance - Contract Challenges**

<table>
<thead>
<tr>
<th>Area of Focus</th>
<th>Compliance Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of Contract Compliance</td>
<td>Trade Agreements Act (TAA)</td>
</tr>
<tr>
<td>Sales Reporting and Industrial Funding Fee Remittance</td>
<td>Basis of Award</td>
</tr>
<tr>
<td>Pricing</td>
<td>Prompt Payment Discounts</td>
</tr>
<tr>
<td>Minimum Sales Requirement</td>
<td>Labor Qualifications</td>
</tr>
<tr>
<td>Administrative Challenges</td>
<td>Other Compliance Challenges</td>
</tr>
</tbody>
</table>
Who Conducts Contract Assessments?

- **Industrial Operations Analyst (IOA)**
  - Conducts contractor compliance assessments
  - Monitors sales reporting, sales adjustments and Industrial Funding Fee (IFF) remittance
  - Provides general guidance and business development support
  - IOA contact information may be found at: FAS Vendor Support Center
Contract items must be within the “scope” of the Schedule and approved Special Item Numbers (SINs)

Only products or services awarded on the GSA Schedule pricelist may be sold

“Open Market” (non-contract) items/services must be identified as such

Common Compliance Challenges:
• Not identifying the item/service as “open market”
• Offering non-contract items/services without identifying as such
Trade Agreements Act (TAA)

➢ Applies to “all” GSA MAS contracts

➢ TAA compliant countries may be found under FAR 25.003

➢ Service Contractors are TAA compliant if they are headquartered in compliant countries

➢ Common Compliance Challenges:
  • Inadequate method of tracking countries of origin
  • Selling non-TAA compliant products
  • Misrepresentation of countries of origin on GSA Advantage
IFF is inclusive to the Schedule pricelist

The customers are assessed the IFF by using the GSA MAS contract program

The GSA MAS program is funded by IFF

Common Compliance Challenges:
- Sales tracking system incapable of isolating MAS sales
- Turnover in contractor personnel results in missed sales
- Lack of understanding what constitutes a “reportable sale”
Sales Tracking System

➢ Identifies, tracks and reports GSA sales accurately and completely

➢ Reports all transactions within the proper period

➢ Separates Schedule sales from other Federal and commercial sales

➢ Common Compliance Challenges:
  • Sales tracking system incapable of isolating MAS sales
  • Turnover in contractor personnel results in missed sales
  • Lack of understanding what constitutes a “reportable sale”
Is it a MAS sale or not?

Is it a sale under the GSA Multiple Award Schedule Contract?

Is the product or service being sold included on the current approved pricelist?

Is there evidence of another contracting vehicle in place?
Examples of other contract vehicles include:
- FAR part 12 - Other Agency Commercial Acquisitions
- FAR part 13 - Simplified Acquisitions
- FAR part 14 - Sealed Bid
- FAR part 15 - Negotiated Bid

The buyer informs the contractor that the procurement is not a GSA M.A.S. contract sale
Note: a Government purchase card is not considered a contracting vehicle

Not a GSA MAS Contract Sale
- Must be included in quarterly report
- Contract terms and conditions (price, prompt payment, delivery etc) apply

GSA M.A.S. Contract Sale
- Not a GSA MAS Contract Sale
Basis of Award (BoA)

➢ Discount relationship with predicates the GSA pricing

➢ Must be maintained to comply with the Price Reductions clause (GSAM 552.238-75)

➢ BoA is not applicable if Mod. A509, Transactional Data Reporting (TDR), was accepted

➢ Common Compliance Challenges:
  • Giving BoA customer deeper discount than authorized
  • Failure to notify CO/CS of the price reduction
  • Failure to notify GSA within 15 days
Pricing

➢ Must charge at or below the GSA Schedule price

➢ Price Increases – Economic Price Adjustments (EPA) must be approved by your CS/CO
  • Automatic escalations
  • One-time increases

➢ Common Compliance Challenges:
  • Customer BPAs authorizing higher pricing
  • Arbitrarily increasing pricing to Federal customers
  • Volume or quantity discount overcharges
Prompt Payment Discounts

➢ Awarded prompt payment discount terms must be displayed on all MAS invoices

➢ Does not apply to Government Purchase Card (GPC) payments

➢ Terms must be included in all MAS quotations

➢ Common Compliance Challenges:
  • PPD terms not identified in electronic invoicing systems
  • PPD terms not identified on customer invoices
  • PPD terms applied for GPC transactions
  • Prompt payment overcharges
Assessment applies only to “Professional Services” awarded with qualified labor categories:

- Advertising & Integrated Marketing Solutions
- Environmental Services
- Financial & Business Solutions
- Mission Oriented Business Integrated Services
- IT Professional Services

Common Compliance Challenges:

- Minimum education and/or experience requirements not met
- Incorrect pricing applied to specific labor categories
- Contractor unable to “crosswalk” task order to pricelist
Compliance Challenges (Review)

➢ Under-reported/over-reported sales
➢ Out-of-scope orders
➢ TAA non-compliant products and/or services
➢ Pricing overcharges
➢ Non-compliant labor qualifications
➢ Outdated or missing Advantage!® pricelist
➢ Missing pricelist from eLibrary!®
➢ Inaccurate contact information
➢ Missing records/documentation
➢ Prompt Payment Discount overcharges
➢ Volume/quantity discount overcharges
Common Administrative Challenges

➢ Out of date pricelist
➢ Pricelist not published
➢ Digital Certificates
➢ Authorized Negotiators
➢ Mass Modifications
➢ Missing contract/Mod documents
➢ Personnel turnover
Contractor Assessments

Objectives:

- To assess and evaluate contractor internal controls and overall compliance with GSA Schedule contract Terms & Conditions
- Completed “Virtually” or “Onsite”
- Address questions and/or concerns
- Performed for most GSA Schedule Contracts
Assessment Participants

➢ Contractor Personnel:
  • GSA Contract Administrator
  • Sales Reporting Representative
  • Other relevant personnel responsible for contractual functions (i.e. sales, marketing, accounting, order tracking, IFF remittance, etc.)

➢ GSA Personnel:
  • Industrial Operations Analyst (IOA)
Assessment Preparation

➢ Initial phone call or email from IOA

➢ Assessment confirmation email outlining requirements

➢ Familiarize yourself with requirements addressed in assessment confirmation email

➢ Provide data and/or documents timely to the IOA

➢ Don’t hesitate to contact the IOA with any questions
Recommended Documentation

➢ GSA MAS Contract and approved Modifications

➢ Current and previously approved pricelist(s) in effect for the review period

➢ Resumes of personnel performing “professional services”

🔹 Sales data, IFF reporting and supporting transactional records

🔹 Quotes, task order/purchase order documentation, invoices and supporting records for the review period
What happens to assessment findings?

➢ IOA observations and findings of areas of non-compliance are integral to the closeout meeting
➢ Contractor should provide timeline for root cause analysis and proposed corrective action to the IOA
➢ IOA completes the “Assessment Report”
➢ Report provided to the contractor and the GSA CO/CS
➢ IOA will work with the contractor to monitor resolution of monetary areas of non-compliance (IFF, pricing overcharges, etc.)
➢ IOA will refer other areas of non-compliance to the GSA CO for review and follow-up

➢ Desired Outcome: A trusted and compliant MAS contract, and as necessary resolution of areas of non-compliance through identification of root causes and implementation of corrective actions to prevent future occurrence
Professional Services & Human Capital Category (PSHC)

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Navigating an Audit of Your PSS Contract

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What is an Audit?

- Generally defined, an audit is “an official examination and verification of accounts and records” (dictionary.com)

- Under PSS, there can be some confusion by contract holders about what constitutes an actual audit
Contract Audit vs. Contractor Assessment

- Highly detailed review
- Conducted before an option is exercised
- Approximately 15-20 contractors selected for an audit each year

- Reviews administrative compliance items
- Conducted frequently throughout the life of the contract
- Provides generalized education on your contract and marketing
- All contractors receive a visit
Who Performs the Audits?

- Audits are conducted by GSA’s Office of Inspector General (OIG)
- PSS contract audits are not completed by the Defense Contract Audit Agency (DCAA)
- The role of the auditor is to review and recommend to the Contracting Officer
  - Audit report findings are a tool used in developing negotiation objectives
What to Expect

- Engagement Letter issued 365 days before current contract period expiration date
- Audit team will request sales data and pricing proposal
- Review may be conducted virtually or on-site
Top Tips for Success

Respond promptly

Respond completely
Report Issued

- May or may not be issued before current contract period end date

- Contracting Officer will extend contract before audit negotiations are completed if needed to ensure continuity

- Contracting Officer uses audit report and supporting data to prepare for negotiations
Common Findings

- Commercial Sales Practices information is not current, accurate, or complete
- Contractor used unqualified labor

Watch out for these!
Resolution of the Audit

- Contracting Officer will initiate negotiations once they have concluded their evaluation.
- Auditors will be invited to negotiations.
- Your contract will be modified based on the result of negotiations.
**Improvements to the Process**

- Changed policy on “freezing” current year rates
- Improving internal procedures for faster processing times
Questions?

Professional Services & Human Capital Category (PSHC)

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