

MAS Webinar Q&A Summary Regarding April 2017 Mass Modification/Solicitation Refresh

The Q&A below addresses many of the questions received during the 3/22 industry webinar on the MAS solicitation refresh/mass modification planned for April 2017. Additional information can be found in the Draft Significant Changes attachment included in the original [GSA Interact Post](#). Please also refer to the Federal Register notices on [Basic Safeguarding of Covered Contractor Information Systems](#) and [Paid Sick Leave for Federal Contractors](#) for additional information on these changes. Please note that the order level reporting requirement included in the rule will be effective after November, 2017 to allow for systems updates to be completed to accommodate this rule. Any delay in systems updates may delay implementation of order level reporting. GSA will provide further information/updates on the order level reporting requirement to stakeholders prior to the November, 2017.

Small Business Subcontracting Improvements

Q1. Do the small business subcontracting improvements apply to small business prime contractors as well?

- A. The planned changes generally do not affect small business prime contractors, as FAR clause 52.219-9, *Small Business Subcontracting Plan* does not apply to small business concerns.

Q2. Should contractors start using the new Model Small Business Subcontracting Plan now in proposals prior to November 2017?

- A. Yes. Per the final rule, the order level reporting requirements will become effective after November 2017. However, all other changes implemented by the rule, including changes to the model subcontracting plan, became effective as of November 1, 2016. New offerors will submit subcontracting plans via eOffer using the "Subcontracting Plan Model Template." When necessary, existing contractors may submit new plans to their Contracting Officer for approval and incorporation into the contract.

Q3. Which contracting officers (COs) can establish goals at the order level? The GSA CO or the Ordering Agency CO?

- A. The ordering agency CO can establish goals at the order level.

Q4. Will everyone have to update current subcontracting plans? If so, in what time frame?

- A. The rule does not require immediate updates to existing subcontracting plans. Contractors with existing plans will be required to submit a new subcontracting plan prior to expiration of the existing plan, generally prior to exercise of the option period.

Q5. If my company currently does not have a subcontracting plan, will we have to submit one prior to exercise of the next option period?

- A. If your company was previously a small business and re-represents itself as a large business, then you will be required to submit a small business subcontracting plan prior to exercise of option. In addition, large businesses that do not currently have an approved subcontracting plan will also be required to submit a subcontracting plan prior to exercise of option. GSA will provide additional information to contractors in advance of their option period.

Q6. Does reporting at the order level only apply if you have an individual subcontracting plan (as opposed to a commercial plan)?

- A. Order level reporting applies to orders placed against both individual and commercial subcontracting plans.

Q7. Do these changes only apply to individual subcontracting plans or are there also changes that impact commercial subcontracting plans?

- A. Please refer to the rule, as the changes generally apply to both individual and commercial subcontracting plans.

Q8. Will order level reporting be required on all orders under a commercial subcontracting plan?

- A. As the rule states at FAR 19.704(a)(10)(iii) and 52.219-9(d)(10)(iii), subcontracting data is required for each order, regardless of dollar value. The rule also requires order-level reporting on single-award indefinite delivery, indefinite quantity contracts intended for use by multiple agencies in order to ensure that subcontracting credit is allocated based on funding agencies for all contracts, not just multiple-award contracts in use by multiple agencies.

Q9. Will these changes preclude contractors from submitting a commercial small business subcontracting plan?

- A. No, contractors may still submit commercial plans in accordance with FAR clause 52.219-9, *Small Business Subcontracting Plan*.

Q10. Can you clarify the difference between a subcontracting plan and subcontracting goals?

- A. A subcontracting plan is a document setting forth how a contractor will provide small, HUBZone small, small disadvantaged, small women-owned, veteran-owned small, and service-disabled veteran-owned small business concerns with the maximum practicable opportunity to participate in the performance of a contract or subcontract. Subcontracting goals are the specific dollar and/or percentage goals for subcontracting to small, HUBZone small, small disadvantaged, small women-owned, veteran-owned small, and service-disabled veteran-owned small business firms. Subcontracting goals are included within the overall subcontracting plan. The ordering activity may also, in its discretion, establish small business subcontracting goals for individual orders, blanket purchase agreements, or basic ordering agreements.

Q11. Does the requirement to report subcontracting at the order level apply to current task orders or only new ones issued after November 2017?

- A. The requirement to report subcontracting data at the order level will apply to open task orders issued after the date of the Schedule refresh incorporating the rule into the master Schedule contract.

Q12. Will the current overall GSA schedule subcontracting goals be the goals now used for individual orders or will the contractor be requested to propose order-specific goals? Can order level goals exceed goals established in the subcontracting plan?

- A. At their discretion, order level COs may choose to establish subcontracting goals for any order and may establish whatever goal they deem appropriate for an order.

Q13. Will vendors be required to recertify their business size as a result of these changes?

- A. No, vendors will not be required to re-represent their business size as a direct result of these changes. However, vendors may at times be required to re-represent business size, including prior to exercise of option.

Q14. Will contractors report order level subcontracting data to GSA or to the ordering activity?

- A. Contractors will submit subcontracting reports, including order level subcontracting data, via eSRS, which will be accessible by both GSA and the ordering activity.

Q15. Is the size determination for orders against Schedule contracts made at the Schedule contract level? How is the business size verified if it is different than the size listed in SAM?

- A. Contractors self certify their business size at the Schedule contract level, based upon the current size standard for the applicable NAICS code under which the contractor anticipates the predominance of the work will be performed. This size determination applies to all orders under the contract. Agencies do not need to make a separate size determination at the order level and should rely on the business size representations made at the Schedule contract level and found on eLibrary and *GSA Advantage!*.

Q16. Where can I find additional information on the planned change?

- A. Please refer to the [final rule](#) published in the Federal Register for more information.

Purchasing by Non-Federal Entities

Q17. Is the definition of "disaster preparation" left to the state or local entity to determine? What is the criteria for non-federal entities to validate that their purchases are for disaster preparation or recovery?

- A. Definitions and ordering language are provided under the [FAQ](#) section of the GSA Disaster Purchasing Program website: www.gsa.gov/disasterpurchasing

Q18. Will GSA ever allow for use of GSA Schedules by State and Local municipalities for other than disaster preparation, response, and recovery?

- A. GSA has several programs that allow state and local governments access to Schedules. All of these programs are authorized and detailed under law. GSA does not, at this time, have unilateral authority to open up additional Schedules to state and local governments. Current programs, authorities, and their scope of access are outlined on the GSA State and Local website: www.gsa.gov/stateandlocal

Miscellaneous

Q19. Do we have to update all of our catalog/pricelist once we accept this mass modification?

- A. The purpose of the mass modification will be to update terms and conditions of the contract. In general, we do not anticipate that these changes will necessitate an update of each contractor's FSS price list.

Q20. The final rule implementing the Paid Sick Leave requirement suggests that it will apply to new awards on or after January 1, 2017. Is GSA's intent to apply this requirement to new orders awarded on or after this date? Or will it only apply to new Schedule contracts awarded on or after this date?

- A. GSA will update MAS solicitations to include FAR clause 52.222-62, *Paid Sick Leave Under Executive Order 13706*, as applicable. The requirement will apply to any new schedule contracts (and all subsequent orders) awarded under the updated terms and conditions. As applicable, existing MAS contracts will incorporate FAR clause 52.222-62 via a bilateral mass modification. The requirement will apply to any new orders awarded after the effective date of the modification. It will not retroactively apply to existing orders, unless otherwise indicated at the order level.

Q21. Regarding the Service Contract Act/SCLS, are contractors required to abide by the wage determinations (WDs) incorporated at the Schedule level even if they are not the most recent WDs issued by the Department of Labor (DoL)? Or are contractors required to abide by the most recent WDs issued by DoL?

- A. Contractors and ordering agencies are required to abide by the wage determinations that are included in the Schedule contract. Ordering agencies should not incorporate additional WDs into the task order, because that would be in conflict with the Schedule contract terms and conditions. Since the Schedule contract rates for SCLS labor categories may be higher for purposes of compliance with a wider geographical scope of performance than the locale contemplated at the task order level, ordering agencies should utilize their best practices of seeking price reductions on the order if the wage determination for the place of performance is lower than the negotiated rates in the Schedule contract.

SCP-FSS-002 SPECIFIC PROPOSAL INSTRUCTIONS FOR SERVICES (MAR 2014) explains the process of incorporating WDs at the Schedule level. A portion of this provision is provided below.

(3) *Section III Price Proposal:*

(iv) *Service Contract Act: Applicable to this solicitation (Service Contract Act 52.222-41, and related clauses 52.222-42, 52.222-43, and 52.222-49)*

1. *The Service Contract Act (SCA) applies to all nonprofessional services to be provided under this Schedule except for any pricing offered for services outside of the United States. The SCA index of applicable wage determinations for this solicitation and resultant contract are shown in FedBizOpps document, "SCA Index of Wage Determinations." The full-text version of each wage determination can be viewed at www.wdol.gov. Some of the proposed labor categories may be subject to the SCA (usually nonprofessional categories). As such, the Offeror should verify that its proposed base rates and fringe benefit rates for these labor categories meet or exceed the SCA wage determination rates and fringe benefits for the areas included in the geographic scope of the contract (i.e., nationwide); the Offeror will be required to comply with applicable SCA wage determination rates and fringe benefits regardless of the*

price proposed and awarded on any resultant Schedule contract. The Offeror may be required to submit supporting documentation for the proposed rates that will allow the contracting officer to conduct cost analysis to determine that offered prices are fair and reasonable.

*2. Schedule contractors must comply with the base rate and fringe benefit rate requirements of the prevailing rate SCA Wage Determination (WD) Revision Number currently incorporated into the GSA Schedule contract. **No prevailing rate WD may be incorporated into a task order as the order may then be in conflict with the Schedule contract terms and conditions.** However, WDs based on collective bargaining agreements (CBAs) may be incorporated into a task order if the task order is found to be a successor contract as used in FAR Subpart 22.10; a CBA WD would be applicable only to the task order it is incorporated into and no other orders under that Schedule contract.*

*3. In the price proposal, indicate which proposed labor categories are subject to the SCA by placing a double asterisk (**) next to the labor category name.....*

