Order-Level Materials - Vendor Webinar

Presented by:
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FAS Office of Policy and Compliance
Objectives

- Overview of Order-Level Materials (OLMs)
- Crafting an OLM Quote
- Questions
Overview

- What are Order-Level Materials (OLMs)?
- Why is this change needed?
- Background on rule
- Which Schedules are impacted?
- Definitions
- Comparison of OLMs, ODCs and ancillary items
What is an Order-Level Material?

- OLMs are supplies and/or services acquired in direct support of an individual task or delivery order placed against an FSS contract or BPA when the supplies and/or services are not known at the time of the Schedule contract or BPA award.
- Prices are **not** established in the FSS contract or BPA.
- Prices are established and acquired at the **order level** and the ordering activity contracting officer is responsible for making the determination that prices for all OLMs are fair and reasonable.
- Purchased under the authority of the FSS program.
Why OLMs are needed?

**Current State**
Duplicative contracts and associated inefficiencies within the FSS program

**Problem**
The schedules program is not able to effectively add supplies or services to a task or delivery order that were unknown at the time of the contract award.

**Why?**
The FSS program lacks the flexibility granted to other IDIQ contracts.

**Solution**
OLMs can now be added under the procedures in GSAR 552.238-82.

**Desired Results**
- Reduced administrative costs related to contract duplication
- Reduced transaction costs by eliminating the need for additional contracts for ancillary work
Background

- GSA utilized its authority over the FSS Program to promulgate this rule as a special ordering procedure authorized by FAR 8.403(b).
- GSA issued the rule on January 24, 2018.
- For more information on the rule: GSAR Case 2016-G506 Federal Supply Schedule - Order-Level Materials
Schedules impacted?

<table>
<thead>
<tr>
<th>Schedule Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>03FAC</td>
<td>Facilities Maintenance and Management</td>
</tr>
<tr>
<td>56</td>
<td>Buildings and Building Materials/Industrial Services and Supplies</td>
</tr>
<tr>
<td>70</td>
<td>General Purpose Commercial Information Technology Equipment, Software and Services</td>
</tr>
<tr>
<td>71</td>
<td>Furniture</td>
</tr>
<tr>
<td>84</td>
<td>Total Solutions for Law Enforcement, Security, Facilities, Fire, Rescue, Clothing, Marine Craft...</td>
</tr>
<tr>
<td>00CORP</td>
<td>The Professional Services Schedule</td>
</tr>
<tr>
<td>738X</td>
<td>Human Capital Management and Administrative Support Services</td>
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</tbody>
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List can be found at: [https://www.gsa.gov/olm](https://www.gsa.gov/olm)
# Definitions

<table>
<thead>
<tr>
<th></th>
<th>Open Market Items</th>
<th>Ancillary items</th>
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</table>
| 01| - items not on a Federal Supply Schedule  
- These items can only be added to an FSS order pursuant to FAR 8.402(f)  
- IFF does not apply | - supplies/services not within the scope or any other SIN on the Schedule  
- not the primary purpose of the work ordered, but are an integral part of the total solution offered  
- items that can be defined and priced up-front at the FSS contract level  
- IFF applies |
| 02| **Other Direct Costs (ODCs)**  
- costs not previously identified as direct material cost, direct labor cost, or indirect cost  
- e.g., incidental services for which there is not a labor category specified in the contract, computer usage charges etc. Could be OLM  
- FAR 52.212-4(e)(iii) | |
| 03| **Indirect Costs**  
- any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective. Could be included in OLM, GSAR 552.238-82(7)(iii) | |
### What are the differences?

<table>
<thead>
<tr>
<th>Product Type</th>
<th>Order Type</th>
<th>Contract item/IFF Applies</th>
<th>Priced out</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>OLM</td>
<td>T/M &amp; L/HR CLIN</td>
<td>Yes</td>
<td>order level</td>
<td><strong>GSAR 552.238-82</strong></td>
</tr>
<tr>
<td>Open Market Item</td>
<td>All</td>
<td>No</td>
<td>separate item</td>
<td><strong>FAR 8.402(f)</strong></td>
</tr>
<tr>
<td>Ancillary Item</td>
<td>FP/T/M L/HR</td>
<td>Yes</td>
<td>contract level</td>
<td><strong>GSAR 538.270</strong></td>
</tr>
</tbody>
</table>
## Summary of Changes

<table>
<thead>
<tr>
<th>Rule Overview</th>
<th>Summary of GSAR Changes</th>
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</table>
| The GSAR rule clarifies the authority to acquire OLMs when placing an order or establishing a BPA against an authorized FSS contract.  
• Adds flexibility to easily acquire OLMs with adequate management controls  
• Agencies can better utilize the Schedules program, rather than conduct separate open market procurements  
• Reduces duplicative and inefficient contracts  
• Enhances competition under the Schedules program by reducing incurred proposal costs to be awarded to other commercial IDIQs | Amends GSAR 515, 538, and 552:  
• Removes the requirement to complete a CSP for OLMs  
• Adds a new subpart to clarify authority to acquire OLMs  
• Authorized on select Schedules  
• Adds instructions to COs to use FAR 52.212-4 Alt I for authorized Schedules  
• Adds a new GSAR clause, Special Ordering Procedures, including a set of controls to manage the use of OLMs |
Link: CSA & OLM

CSA Rule & OLMs

- GSA also issued a rule, ‘Unenforceable Commercial Supplier Agreement (CSA) Terms’ on February 22, 2018. the [GSAR final rule 2015-G512](#), broadly defines unenforceable obligations and clauses, and outlines the order of precedence contracting officers and industry partners must follow.

- Because both regulatory changes require changes to Clause 552.212-4, and that OLMs in many instances may involve CSAs. The CSA final rule will be implemented **FIRST**, this will ensure applicability of the CSA protections to OLMs for our customers and limit multiple changes to this clause.
What a Schedule Vendor Needs to Know

- To receive the OLM customized mass modification, eligible contractors (those on OLM Schedules), must **first** accept the CSA modification.
- This modification contains the changes to the commercial item clause for both CSA and OLM:

  **Contract Terms and Conditions - Commercial Items**

  (JAN 2017) (Deviation - FEB 2018)

  (Alternate I - JAN 2017) (Deviation - FEB 2007)

**GSAR 552.212-4**
How can a contractor begin quoting OLMs?

- A coordinated refresh/customized mass modification will incorporate the following clauses and provisions:

  **GSAR 552.238-82**
  Special Ordering Procedures for the Acquisition of Order-Level Materials (Jan 2018)

  **SCP-FSS-007**
  Special Proposal Instructions for Order-Level Materials Special Item Number (JUN 2018)
New OLM SIN

Key Ideas:

- SCP-FSS-007 Special Proposal Instructions for Order-Level Materials
- No administrative, technical, or price proposal requirements - offerors cannot propose items/pricing at the MAS contract level
- Exempt from Commercial Sales Practices disclosure requirements as OCOs determine price reasonableness
- Only applicable to certain schedules
- Cannot be the only SIN awarded on the contract
Post-Award Contract Administration

Exemptions:

- **GSAR 552.216-70** Economic Price Adjustment - FSS Multiple Award Schedule Contracts
- **I-FSS-969** Economic Price Adjustment - FSS Multiple Award Schedule
- **GSAR 552.238-71** Submission and Distribution of Authorized FSS Schedule Pricelists
- **GSAR 552.238-75** Price Reductions
Post-Award Contract Administration

Applicable:

- **GSAR 552.238-74 Industrial Funding Fee and Sales Reporting**
  - Contractors are required to report sales and remit the IFF for all sales under the OLM SIN
- Transactional Data Reporting (TDR) requirements
- Other terms and conditions (ex: TAA, AbilityOne)
Administering FSS Contracts with the OLM SIN cont.

33.33% OLM SIN not the primary purpose of orders

Cumulative value of OLM SIN cannot exceed one third of the total value of an order

- CO and Acquisition Team monitor contract for compliance
- Records Examination
  - FAR 52.212-4
  - GSAR 552.215-71
- GSA Contractor Assessments
  - Review for compliance
  - Document in Contractor Assessment Report
How to Quote OLM

Instructions to Quoters:

- Quote OLMs using a separate CLIN
  - Identify subcontract for service excluded from FSS hourly rates
  - Must be incidental (i.e. not within primary scope)
  - Itemize OLM categories
  - Indirect cost as a fixed amount (if applicable)

- OLMs includeIFF
- OLMs < 33.33% of total order
- Limit quotes to contract items
  - Exclude ODCs when > Micro-purchase threshold
- OLMs are in direct support of TO/DO not as the primary purpose
How to Quote Continued

Other Pertinent Information:

- CO will follow [GSAR 552.238-82](https://fedinfo.gov/gsar/552.238-82) Special Ordering Procedures for the Acquisition of Order-Level Materials
- Orders will be structured to maximize fixed-price CLINs
- OLMs are negotiated with a NTE amount
Can OLMs be utilized on a Fixed Priced Order?

**Answer:** Yes, although OLMs are only authorized on T/M/Lhr CLINs and agencies are encouraged to maximize the use of fixed price. A “hybrid” order despite having T/M, can be classified as fixed price for reporting purposes.

- For example, an order may include several fixed price CLINs totaling $200,000, plus a T&M CLIN for OLMs with a not-to-exceed threshold of $25,000. Since the majority of the order dollar value is awarded on a fixed price basis, the order may be classified as fixed price for reporting purposes.
CO OLM Checklist

1. Check Schedule Authorization
2. Check that Vendor has OLM SIN
3. Check for Subcontractors
   • Check for subcontractor allowability
4. Check that travel is applied correctly
5. Check that IFF is applied correctly
6. Check that indirect costs are applied correctly
7. Check that OLM CLIN < 33.33% of total
8. OLM Fair & Reasonable Price Determination
How to Quote Continued

Subcontractor Check

- OLM “subcontracts for services” are allowable as long they are considered “incidental” to the task and cover a service not awarded in the FSS contract
How to Quote Continued

Travel Rule

Travel is not a Schedule contract item and therefore is not subject to the IFF, nor is travel considered part of the OLM CLIN

• See [GSAR 552.238-82 (d)(11)(i)(ii)]

• *Not* included in OLM Limitation calculation
How to quote Continued

IFF Check

- All OLMs must include the IFF
- IFF rate is 0.75%
- IFF is included in the computation of the 33.33% OLM Limitation Amount

Example:
Base Rate: $50. What is the rate with IFF?
$50/0.9925 = $50.38
$50.38 x .0075 = IFF of $0.38
Rate inclusive of IFF is $50.38
How to Quote Continued

Indirect Cost Rule

- OLM Indirect costs *must* be proposed as a **fixed amount**
  - Order may include an amount that results from negotiations
- Vendor should specify their preference for payment of indirect cost (e.g. pro-rata)
- Vendor is responsible for supporting their proposed indirect amount
How to Quote Continued

Check OLM CLIN Limitation (33.33%)

- Remember the cumulative value of OLMs cannot exceed 33.33% of the total value of the order

Calculate % OLM on the Order:

\[
\frac{OLM \text{ $Amount}}{Total \text{ Order $Amount (excludes travel)}} \times 100\% = \% OLM \text{ on the Order}
\]

Note: OLM Limitation is precisely (1/3) or approximately 33.33%
How to Quote Continued

Check OLM CLIN Limitation (33.33%)

\[
\frac{\text{OML Amount}}{\text{Total Order Amount (excludes travel)}} \times 100\% = \% \text{ OLM on the Order}
\]

OML Labor = $10,000
OML Supplies/Materials = $10,000
OML Indirect = $1,600
Total OLM = $21,600
Rest of Order = $78,400

Total Order Amount = $100,000

\[
\frac{21,600}{100,000} \times 100\% = 21.60\%
\]
How to Quote Continued

Remember a contractor must support the reasonableness of each OLM over the Simplified Acquisition Threshold prior to quoting by:

- Obtaining a minimum of three quotes
  (a) One of these three quotes may include materials furnished by the contractor under FAR 52.212-4 Alt I (i)(1)(ii)(A),
  (b) If the contractor cannot obtain three quotes, document why couldn’t obtain
  (c) A contractor with an approved purchasing system per FAR 44.3 shall instead follow its purchasing system requirement and is exempt from the three quotes.
How to Quote Continued

Fair & Reasonable Determination

- Can an OCO ask to see the three quotes the vendor received?
  - Before asking for this information, the OCO should base the fair and reasonable price determination on the comparison of quotes, analysis of Schedule rates and other available market information (see FAR 15.404-1(b)(2))
Indirect Costs:
● The OCO could have questions about the indirect amount quoted
  ○ Quoted amount must be a fixed amount
  ○ The indirect fixed amount should be reasonably related to the furnishment of the quoted OLM
  ○ Vendor should specify their preference for payment of indirect cost (e.g. pro-rata)
OLM Order Information

- OLM amount awarded is the ceiling amount that the vendor exceeds at their own risk
- Remember OLM amount cannot exceed 33.33% of the total value of the order
  - Total value is defined as the recorded dollar value at time of award inclusive of option periods
  - Therefore if the order is modified the 33.33% rule still applies
eBuy & OLM

- Buyers will have the option to allow OLMs in quotes for authorized Schedules
- If they do allow OLMs, contractors will be notified that OLMs will be considered when viewing the RFQ in eBuy.
  - A contractor must be awarded the OLM SIN to propose OLMs in its quote
OLM & Existing BPAs

- The flexibility to acquire OLMs to support individual orders may be within the scope of *existing* FSS BPAs — provided that:
  - the underlying FSS contract includes the OLM SIN
  - CO determines the OLM SIN (and products or services to be procured under it) are within the scope of the underlying BPA.
  - Utilizing the OLM flexibility for new BPA orders shall **not** alter the primary purpose or scope of the BPA, as OLMs may only be acquired in direct support of work performed under existing BPA SINs.

- Again, it’s important to be clear that just because the OLM SIN is available under an underlying schedule contract, it does not mean that they are within the scope of the BPA. For example, a BPA for janitorial services cannot be expanded to include landscaping services under an OLM SIN. The OLM items have to be within scope to be added to a BPA.
Additional Resources

Below are links to additional resources you can use to learn more about OLMs:

- [GSA Interact Notice](#)
- [GSA.gov-Order Level Materials](#)
- [VSC](#)
QUESTIONS

- Please enter questions via the Meeting Space chat function
- Additional questions may be submitted to olmquestions@gsa.gov