



[About The Gormley Group](#) | [Join Our Mailing List](#) | [Our Services](#)

IN THIS ISSUE

[Domain Expertise](#)

[Federal /State Marketplace](#)

[Educational Topics](#)

[Compliance Issues](#)

[Upcoming Events](#)

QUICK LINK

[Our Services](#)

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Domain Expertise

Gormley Group Consultant Notes from Professional Services Schedule (PSS) Session at The Coalition for Government Procurement Spring Training Conference

1. PSS is considering one NAICS code per SIN. This change will occur in FY 2018 after public comments.
2. In addition to working on the streamlined offer, which should be published in the fall, they are also working on streamlined mod instructions.
3. GSA estimates the pre-screen process is taking 45 days. Goal is for pre-screens to be completed 30 days after submission.
4. Currently, audits are taking two to three years to complete. The goal is for audits to be completed in one year.
5. In addition, mods, such as rate increases can now occur during an audit.
6. There are no longer separate ACOs and PCOs; every contractor just has one CO for all functions.
7. Currently, an award is taking a little less than one year after submission. Goal is 45 days; they want to simulate the IT Center. Also, considering a FastLane option.
8. Construction Management is staying under PES, it is not moving to 03 FAC.
9. There are no plans to expand TDR to other PSS SINs.

[Source](#)





Federal Marketplace

New CBO score gives IT modernization bill a \$500M price tag

Proponents of the Modernizing Government Technology Act have been saying for weeks that they had ironed out wrinkles that earned the bill a \$9 billion score from the Congressional Budget Office in 2016.

The CBO proved them right on May 15, giving the reintroduced bill a \$500 million cost projection from 2017 to 2022.

After passing the House in September, the information technology bill received a \$9 billion cost score from CBO on Dec. 1, hampering its chances of being passed in the Senate before the new year.

The new score centers on the bill's proposal of two appropriations of \$250 million in 2018 and 2019 to help stand up legislation implementation, as opposed to the \$3 billion proposed in the 2016 version, which originated from President Obama's fiscal 2017 budget request.

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GSA official promises vendors "proactively business-friendly" approach under Trump

GSA is considering changes to transactional data reporting rules to make them more palatable to vendors, said the agency's third in command.

The agency will shift mandatory rules for contractors to a voluntary basis, said Jack St. John, GSA's chief of staff in a speech to the Coalition for Government Procurement's spring training conference on May 11.

"On the most basic level, I want you to know we're committed to be proactively business friendly -- which means streamlining the acquisition process, reducing regulatory burdens while keeping good policies in place," St. John said.

"For example, transactional data reporting. I know this is an important issue for coalition members. I want you to know that we are listening and are in the process of making changes," he said.

The rules require government contractors provide data about the transactions they made through the GSA's schedule and government-wide acquisition contracts. The rules were meant to help smooth the reporting requirements for contractors under other regulations. However, contractors reported significant concerns over how data was being interpreted by GSA.

"We're going to re-examine the burdens and benefits of TDR. As we do so, we want and need your input," he told the group.

The remarks on TDR were welcomed by some audience members as a sign the administration was working to address some regulatory clutter.

Bill Gormley, president of the Gormley Group, said the "fresh set of eyes" on the reporting rules "is a clear signal there will be a reduction in hurdles to getting on [GSA's] schedules."

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Federal Marketplace

GSA Issues Request for Information for Entity Identification and Validation Services

On February 13, 2017, the General Services Administration (GSA) released a Request for Information (RFI) for government-wide entity identification and validation services. Currently, these services are provided by Dun and Bradstreet, whose contract with GSA expires in 2018. The government has a need for assignment and maintenance of a unique numbering system to consistently identify specific commercial, nonprofit, or government entities. The overarching government requirement is for business identification and validation services associated with that unique number.

GSA received an impressive number and variety of responses to the RFI from Industry and other stakeholders. GSA is methodically reviewing the responses to determine the viability of proposed alternatives across the government award communities which will result in greater clarity for the next steps.

GSA welcomes feedback from industry partners and other concerned stakeholders. Industry engagement is a key success factor in a complex acquisition such as this.

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GSA starts translating Trump's priorities into acquisition policy

GSA is going to have its hands full this summer as it works toward translating President Donald Trump's contracting priorities into policy.

Jack St. John, GSA's chief of staff, outlined a few of these priorities for a crowd of contractors at the May 11 Coalition for Government Procurement's Spring Conference in Falls Church, Virginia.

St. John said efforts are underway to reduce the burden of making solicitations under the Professional Services Schedule.

"Over time, and with good intent, the current [Professional Services Schedule] solicitation has grown to 167 pages, with 17 sections and more than a dozen appendices and templates. The sheer volume and complexity of the solicitation requires refreshment and streamlining," he said.

He broke that down into concrete goals, which include:

- reducing costs of submitting an offer under PSS;
- improving the timeliness of offer review;
- providing transparency regarding contractors' qualifications to be awarded a PSS before the offer is submitted;
- clear and concise instructions, eliminating repetition in solicitation requirements;
- ensuring clause provision consistency among all 21 multiple award schedule offerings;
- moving unnecessary, obsolete and conflicting clauses; and
- developing a final strategy to reopen Schedule 75.

Schedule 75 is a GSA contract vehicle that allows federal agencies to purchase office supplies. It was [closed down in 2010](#) in favor of [blanket purchasing agreements with 15 companies](#), but last year, GSA [announced that it was considering reopening the schedule](#). St. John said that GSA made the decision to do so in order to expand its existing contractor pool, especially small businesses that were frozen out when the schedule closed.

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Federal Marketplace

Army budget points toward multi-domain operations

The Army will likely receive more funding from Congress in the coming years. And there's a good chance that money will go towards ensuring proper staffing, training and equipment, instead of modernization.

Despite its large operating budget, the Army still allocates smaller percentages for its research, development, test and engineering (RDT&E) budget than other service branches, and as a result, it has struggled when it comes to modernization.

But that doesn't mean that the Army is not interested in modernizing. One recent modernization concept emerging within the service branch has been multi-domain operations, which would ensure better information and data sharing between operational domains like cyber, space, land and intelligence. The Army wants to break down barriers between these domains to gain a competitive advantage against adversaries. Multi-domain solutions would provide more accurate information to commanders, enabling them to act faster and giving them an important edge.

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Board: Contractor On Hook For Incumbent Employees' Vacation Time

The Service Contract Act requires contractors to pay certain provide no less than certain prevailing wages and fringe benefits (including vacation) to its service employees. The amount of vacation ordinarily is based on an employee's years of service—and service with a predecessor contractor counts. The FAR's [Nondisplacement of Qualified Workers](#) provision, in turn, requires follow-on contractors to offer a "right of first refusal" to many of those same incumbent employees.

A follow-on contractor is to be given a list of incumbent service personnel, but that information ordinarily isn't available at the proposal stage. So what happens when a follow-on contractor unknowingly underbids because it isn't aware how much vacation is owed to incumbent service personnel? The answer, at least in a fixed-price contract, is "too bad for the contractor."

So it was in [SecTek, Inc., CBCA 5036 \(May 3, 2017\)](#)—there, the Civilian Board of Contract appeals held that a contractor must pay employees retained from the incumbent nearly \$170,000 in wage and benefit costs based on its underestimate of those costs in its proposal.

In 2015, the National Archives and Records Administration issued a request for quotations to provide security services at two NARA buildings. This solicitation fell under the Service Contract Act and also included the FAR's the Nondisplacement of Qualified Workers clause ([FAR 52.222-17](#)). In other words, the successful contractor had to provide a right of first refusal to qualified service employees, and honor years of service incurred by those employees with the predecessor contractor.

The solicitation included a wage determination that informed offerors that incumbent employees' benefits were defined in part under a collective bargaining agreement.

Before submitting its final quote, SecTek asked whether the government would provide a list of the incumbent contractor's security officers, including their seniority, before proposals were submitted. The government did not, citing the FAR's provision that this list must instead be provided after award.

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Federal Marketplace

Jay Carr: Contractor Engagement Key in Army Procurement Process

Jay Carr, executive director of the Army Contracting Command, has said that contractors should be well-trained and ready to help U.S. Army commanders implement technology they need to execute a mission.

Carr added that he believes companies and government officials need to collaborate early in the acquisition planning process and throughout the procurement cycle, according to an article [published Friday](#) on the Army website. The report said he oversees nearly \$80 billion in contracts for the service branch each year.

He noted that ACC works to help ground commanders articulate written requirements and the command has a “vested interest” to provide them with technologies needed in the battlefield. Maj. Gen. James Simpson, ACC commander, said the command aims to increase accountability for contracts that its contracting personnel is responsible for.

[Source](#)



Educational

Competitive Range Exclusion of Small Business Based on Insufficient Capabilities Requires Certificate of Competency (COC) Referral to SBA

The Government Accountability Office (GAO)’s recent decision in [Competitive Range Solutions, LLC](#), B-413104.10, Apr. 18, 2017, provides a valuable reminder that Certificate of Competency (COC) referrals to the Small Business Administration (SBA) are required in broader contexts than pure non-responsibility determinations. Specifically, SBA’s regulations provide, *inter alia*, that a contracting officer **must** refer a small business concern to SBA for COC consideration whenever the contracting officer “[r]efuses to consider a small business ... for award ... after evaluating the concern’s offer on a non-comparative basis (e.g., a pass/fail, Go/No-Go, or acceptable/unacceptable) under one or more responsibility type evaluation factors (such as experience of the company or key personnel or past performance.” 13 C.F.R. § 125.5(a)(2)(ii). This means that a contracting officer must refer the issue to SBA whenever the agency proposes to exclude or not further consider a small business based on a non-comparative evaluation of the firm’s capability to perform.

Competitive Range Solutions involved a solicitation (RFP) issued by the Department of Health and Human Services (HHS), National Institutes of Health (NIH), for IT solutions and services to support NIH’s existing Chief Information Officer-Solutions and Partners 3 small business (CIO-SP3 SB) 10-year government-wide acquisition contract (GWAC). The RFP envisioned award of up to 35 additional indefinite-delivery, indefinite quantity (IDIQ) contracts, with a maximum order amount of \$20 Billion.

The RFP envisioned a two-phase evaluation process. During phase 1, the government would evaluate proposals based on four “Go/No-Go” requirements, including Factor 2, management approach, subfactor 1, domain-specific capability in a health-related mission. The RFP stated that under this subfactor the government would evaluate whether the offeror “demonstrates an inherent domain-specific capability in a health-related mission ... through experience, examples or internal resources with substantial relevant experience.” The RFP warned that proposals failing to demonstrate domain-specific capability in a health-related mission would be deemed unacceptable, and ineligible for further award consideration.

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THE GORMLEY GROUP CLIENT ALERT

It has come to The Gormley Group’s attention that there are a host of companies sending emails to contractors doing business with the Federal Government. These emails suggest changes or updates to contractor information in System for Award Management (SAM).

Before you take any action please verify that the email comes from a “.gov” address. We advise that you also check with **your TGG Consultant**.



Upcoming Events

June 6, 2017 the Professional Services Industry Day in Tacoma, Washington. [More Information and registration](#)



Compliance

Former Army Contractor Pleads Guilty to Bribery Scheme Involving Contracts at Aberdeen Proving Ground

On May 10, 2017, Matthew Barrow, age 43, of Toledo, Ohio, pleaded guilty to bribery charges related to contracting at the U.S. Army Communications-Electronics Command headquartered at Aberdeen Proving Ground (APG), in Harford County, Maryland.

According to his plea agreement, in March 2006, the U.S. Army Contracting Command at APG awarded a 10-year, \$19.2 billion contract to seven prime contractors to provide technology services to support the integrated engineering, business operations, and logistics needs for the Army.

John and Danielle Kays were civilian employees who represented the Army on these types of multi-year contracts. From January 2011 until his resignation from government service in July 2014, John Kays held the position of Deputy Project Manager for Mission Command, in effect the number two position for Mission Command. From June 2009 through June 2012, Danielle Kays was the Deputy Director of the Technical Management Division, and from 2012 until her resignation from government employment in October 2015, Danielle Kays was the Product Director of Common Hardware Systems. Barrow was the President and owner of MJ-6, LLC, a company which he and his wife formed in Ohio in 2008 to obtain military subcontracts. From June 2008 through August 2010, Barrow was also employed as a procurement manager by a glass company in Ohio.

From August 2008 to June 2014, John and Danielle Kays agreed to take official actions favorable to Barrow and MJ-6 in return for Barrow paying them a total of approximately \$800,000. Specifically, the Kays used their official positions to add MJ-6 as a subcontractor acceptable to the Army, to steer potential employees for government contractors to work for MJ-6, to approve MJ-6 employees to work on various TOs, and to approve the pay rates, status reports, and travel reimbursements for MJ-6 employees. The Kays steered subcontracts worth approximately \$21 million to MJ-6.

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