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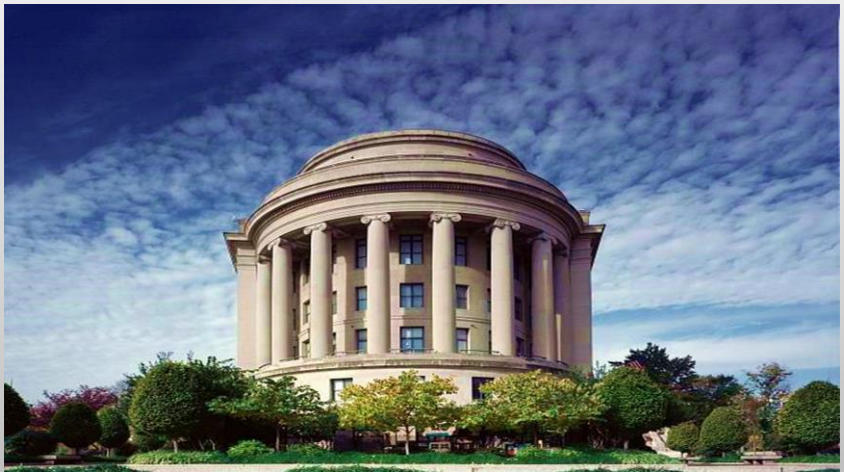
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CONTACT

The Gormley Group
1990 M Street, NW
Suite 480
Washington, DC 20036
www.gormgroup.com
info@gormgroup.com



Domain Expertise

GSA's Tech Day rolls out the welcome mat for industry

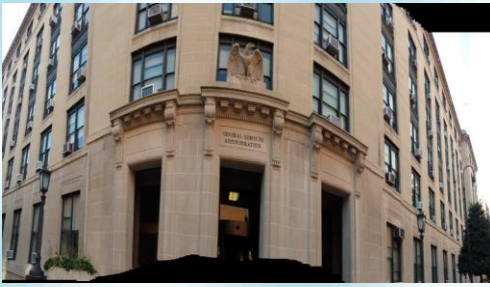
The General Services Administration had a simple message for its first Technology Industry Day: We're ready to do business.

Through a series of panel discussions and demonstrations at the Sept. 8 event, the agency continued to convey a desire to collaborate with the private sector, extending an olive branch of cooperation to industry that sounded much like the promise of a good second date.

"What we do believe, and what I firmly believe, is that from an industry perspective that there will be greater opportunity because we are going to be a better buyer and we're going to be a better partner," said GSA Administrator Denise Turner Roth.

Agency officials repeatedly pointed to the innovations afoot within GSA to make it faster and technologically innovative, such as more flexible contracts, agile development, advances in 18F and the emergence of its new Technology Transformation Service.

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Federal Marketplace Matters

Obama Category Management Team Takes Some Tips from Industry

Some big names of corporate America—Amazon, IBM and Johnson & Johnson—sent representatives recently to counsel Obama administration procurement officials on best practices for implementing category management in government agencies, according to a General Services Administration official.

That governmentwide [effort to consolidate contracts](#) to save money through reduced duplication is well established in the private sector and in governments in the former British commonwealth, noted Tiffany Hixson, regional commissioner of GSA's Federal Acquisition Service and a specialist in the category of professional services. She spoke Thursday at a gathering of contractors belonging to the Professional Services Council.

"The companies want the same thing the government does," Hixson said—cost savings, efficiency, and an improved relationship with the industrial base. "Category management is about managing the industry base and the spend, so we have to get industry involved."

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ODCs on the Multiple Award Schedule Program

GSA announced that it had issued a [proposed General Services Acquisition Regulation \(GSAR\)](#) rule to incorporate Order Level Materials (OLMs), also known as ODCs, into the Multiple Award Schedule Program. This proposed rule would create a new GSAR clause to govern the acquisition of OLMs/ODCs at the task and delivery order level. It will appear formally in today's Federal Register, and here are some of its key features.

The proposed rule defines OLMs/ODCs to include supplies and/or services acquired in direct support of an individual task or delivery order placed against an MAS contract or BPA. Fundamentally, the rule provides that OLMs/ODCs are included and priced at the order level and are not separately identified and priced at the MAS contract level. Using a new, separate Special Item Number, OLMs/ODCs are identified and priced at the time of order, thereby enhancing MAS flexibility in meeting customer agency requirements. According to the Federal Register, one objective of the rule is to create parity between FSS contracts and other commercial indefinite-delivery/indefinite-quantity (IDIQ) contracts, with respect to the ability to acquire order-level materials.

Under the proposed rule, the total value of OLMs/ODCs is limited to 33 percent of the overall order value, and ordering agency contracting officers are required to make a fair and reasonable price determination for all order-level materials. In turn, for the purpose of supporting the fair and reasonable price determination, MAS contractors are required to submit at least three quotes obtained for each OLM/ODCs above the micro-purchase threshold or provide a rational why they cannot obtain three quotes.

The proposed rule would incorporate OLMs/ODCs into the following schedules:

- Federal Supply Schedule 03 FAC: Facilities Maintenance and Management
- Federal Supply Schedule 56: Buildings and Buildings Materials/Industrial Services and Supplies
- Federal Supply Schedule 70: General Purpose Information Technology Equipment, Software, and Services





Federal Marketplace Matters

Following Bid Protest, DISA Re-Releases \$17.5B Contract

The Defense Department's IT arm is again accepting bids for its controversial Encore III contract that could buy as much as \$17.5 billion worth of IT services to support the Pentagon's modernization effort.

Contractors now have until Sept. 30 to revise and submit proposals for Encore III, which has been updated by DISA to adhere to recommendations the Government Accountability Office made in sustaining spring protests by CACI and Booz Allen Hamilton.

Encore III earned ire from industry groups earlier this year because it sought "lowest price, technically acceptable" solutions for potentially complex services, which many felt contradicted a directive from Undersecretary of Defense for Acquisition, Technology and Logistics Frank Kendall. That directive outlined situations when it would be OK to use LPTA, such as commodity hardware purchases.

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- Federal Supply Schedule 71: Furniture
- Federal Supply Schedule 84: Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue, Clothing, Marine Craft, and Emergency/Disaster Response
- Federal Supply Schedule 99: All Professional Services
- Federal Supply Schedule 738X: Human Resources and EEO Services

Incorporating OLMs/ODCs functionality into the MAS program will enhance the overall efficiency and effectiveness of the MAS program. Customer agencies and MAS contractors will have greater flexibility to seek, compete, award, and perform commercial-based solutions to meet agency mission requirements. The result will drive competition and access to innovation from the commercial market place through the MAS program, reducing unnecessary contract duplication. Significantly, small businesses especially will benefit through increased opportunities as MAS prime contractors, as well as subcontractors, providing OLMs/ODCs. For all these reasons, through our ODC White Paper and FAR & Beyond Blogs, the Coalition has supported adding "ODCs" (now OLMs) to the MAS program. It will be a win for government, a win for industry partners, and ultimately a win for the American people.

The proposed rule marks a significant, positive step forward towards a more flexible, efficient, effective, and innovative MAS program. The Coalition will be examining the rule in greater detail and submitting comments to GSA. We look forward to working with GSA and all other stakeholders to incorporate this vital capability into the MAS program.

[Source](#)





Federal Marketplace Matters

Cost of FedRAMP Authorization

Matt Goodrich, director of the *Federal Risk and Authorization Management Program* at the General Services Administration, has said a mid-range cloud service provider would incur a total median cost of \$2.25 million in order to get a FedRAMP authorization.

Goodrich wrote in a blog entry [posted Thursday](#) a CSP would need to spend an additional \$1 million to perform continuous monitoring operations on an annual basis once the FedRAMP certification is achieved.

The cost analysis is based on four CSPs that went through the old FedRAMP process for their software-as-a-service and infrastructure-as-a-service platforms, he said.

According to the analysis, the FedRAMP process' baseline costs include documentation, evaluation by a FedRAMP-accredited third-party assessment organization, Joint Authorization Board review and engineering costs associated with the need to execute technical modifications to a cloud platform in order to meet FedRAMP requirements.

Goodrich noted that costs associated with the previous process prior to the launch of the *FedRAMP Accelerated* system also range between \$500,000 and \$4 million.

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GSA Official: Federal IT Modernization Will Happen With or Without Legislation

Some federal IT is old—a few systems in government could push for senior citizen status if they were people—and agencies are going to have to modernize whether Congress passes meaningful legislation in the coming months, according to one of General Services Administration's top tech officials.

Dave Shive, acting commissioner of GSA's Technology Transformation Service, said the idea behind the proposed \$3.1 billion IT Modernization Fund is "sound and solid," but offered that even if Congress does nothing, agencies must respond to a crisis U.S. Chief Information Officer Tony Scott has labeled worse than Y2K.

"The notion that you would make investments into foundational IT so that you could float the boat, increase usability of technology in the federal space, increase security posture and stance of said technology is a sound concept," said Shive, speaking Thursday at GSA's first Tech Industry Day.

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GSA Announces New Mass Mod for TDR Pilot

On September 7, GSA posted in Interact the new roll out date for the Transaction Data Reporting (TDR) Pilot Program. The [announcement](#) focused on a mass modification for Schedule 75 expected to be released on or before October 7th. This rollout for Schedule 75 differs from the other Schedules within the TDR Pilot in that there is no associated Solicitation Refresh.

In addition, GSA announced that it will be hosting additional training webinars for those who wish to learn more about the planned changes associated with the TDR final rule.

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Federal Marketplace Matters

MAS Blanket Purchase Agreements (BPAs)

Regarding client requests the following information may be of help to you in your discussions with your federal customers when it is time to think about minimizing the possibility of disruption of performance during future unknown GSA MAS Program Contract migrations:

1. Consider a form of “off ramp” and “on ramp” of contract numbers when a BPA is affected
2. Note: The “on ramp” (new contract) terms and conditions (for the purposes of the BPA transition) need to be the same as the original “off ramp” BPA contract terms and conditions
3. The BPA “off ramp” originally agreed upon period of performance should remain the same when item 1 occurs.

This approach is intended to provide you with a “suggested” idea to discuss with your federal customers regarding GSA BPA Schedule migrations and the possibility of an early ending of the 20year contract period (at the request of GSA/VA) and the award of a new contract period.

Contact your **TGG Consultant** about your MAS BPA transition questions.

Educational

Labor Qualifications Compliance – Reminder

Multiple Award Schedule (MAS) contractors providing professional labor categories should be prepared to demonstrate the personnel they are providing under each GSA task order meet the minimum qualifications as specified in their GSA MAS contract.

Professional services labor is made up of employees considered exempt from the Service Contract Act (SCA) such as those who qualify as executive, administrative, or professionals under the definitions provided in 29 C.F.R. Part 541. These employees are generally salaried employees not paid on an hourly basis, and who either supervise others, make decisions of importance and significance using independent judgment, and/or perform work primarily requiring advanced education and experience. If providing professional services, the MAS contract will typically be awarded with labor categories, which will describe the minimum qualifications required of the person serving in that particular capacity. The minimum qualifications are established by your company during the pre-award phase or at the time labor categories are added to your MAS contract. Therefore, the labor categories will be unique to each contractor’s particular MAS contract.

For example, Company X has a labor category titled “Network Engineer”, which requires a bachelor’s degree and ten years of experience. Therefore, if Company X is bidding on a task order project, offers their “Network Engineer”, and is awarded the project, Company X must ensure the employee serving in this capacity has a bachelor’s degree and ten years of experience. Otherwise, Company X will be found to have provided unqualified labor for that particular project and is noncompliant with the terms and conditions of their MAS contract.

The review of labor provided is part of the Industrial Operations Analyst (IOA) compliance assessment process. Therefore, professional service providers may be asked by their IOA to demonstrate the personnel provided on MAS task orders meet the qualifications and experience as provided in their respective MAS contract. Your IOA may ask to look at resumés, timesheets, and other personnel documentation to ensure you are indeed providing qualified labor on MAS task orders. The IOA will refer any issues found regarding the qualified labor provided to the Procurement Contracting Officer (PCO) for appropriate follow-on action.

If you have any questions regarding the specific labor you are providing and/or are not sure if the additional review is applicable to you, please contact your **TGG Consultant**.



Upcoming Events

September 13, 2016 from 10:00 AM to 11:00 AM (CDT) GSA Schedule 56/73 Quality E-Mods Webinar
[Register](#)

September 14, 2016 from 1pm – 2.30 EDT GSA TDR Reporting
[Register](#)

September 15, 2016 / 9:30 a.m. – 4:00 p.m. – Cybersecurity Summit National Harbor, MD
[Register](#)

September 19, 2016 from 10:00am-11:00am (PDT) [Webinar: GSA Schedules - Overview, Trends, and Successes](#)
Speaker: Robert VanGorder, Vice President and Partner, The Gormley Group. Use the discount code **guest** to attend for free

September 21, 2016 – “Doing Business with the Government”: Lecture Series – Aberdeen Proving Ground B2B Conference & Expo
[Register](#)

October 6, 2016 from 2:00-3:00 PM. GSA [Schedule 70 Virtual Quarterly Meeting](#).
[Register](#)



Compliance

SDVOSB Fraud: “Pass-Through” Voided Contract, Says CBCA

An SDVOSB set-aside contract was void—and unenforceable against the government—because the prime contractor had entered into an illegal “pass-through” arrangement with a non-SDVOSB subcontractor.

In a recent decision, the Civilian Board of Contract Appeals held that a SDVOSB set-aside contract obtained by misrepresenting the concern’s SDVOSB status was invalid from its inception; therefore, the prime contractor had no recourse against the government when the contract was later terminated for default.

[Bryan Concrete & Excavation, Inc., CBCA 2882, 2016 WL 4533096](#) involved a U.S Marine Corps veteran with a 100% disability rating, Jerry Bryan. Mr. Bryan owned and operated a construction company, Bryan Concrete & Excavation, Inc., which he started in 1999. In 2006, BCE was hired as a subcontractor on a number of projects overseen by Arthur Wayne Singleton.

After learning of Mr. Bryan’s service disabled status, Mr. Singleton urged BCE to start bidding on SDVOSB set-aside contracts. Mr. Singleton offered to assist BCE in getting qualified as an SDVOSB, bidding on federal projects, and managing those projects. During this time, Mr. Bryan and Mr. Singleton entered into a teaming agreement, which stipulated Mr. Singleton would perform all of work on the set-aside contracts for BCE and BCE would pay Singleton for the direct costs and overhead plus 90 percent of the anticipated gross profit. Despite the impermissible pass-through arrangement, BCE self-certified in the VA’s SDVOSB database (this was before the formal verification process required today).

In 2010, the VA issued an SDVOSB set-aside solicitation for chiller and air handling equipment upgrades. BCE submitted a bid, which was alleged to contain a forgery of Mr. Bryan’s signature by Mr. Singleton. Further complicating matters, Mr. Singleton misrepresented himself to the VA as Mr. Bryan, during discussions of the proposal. BCE was the awarded the contract. -

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