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Domain Expertise

GSA wants to expand cloud shared services

The General Services Administration is looking for modular, interoperable, software-as-a-service applications that can provide common administrative functions across service areas.

GSA's Unified Shared Services Management Office, which administers the federal shared service ecosystem, released a **request for information** asking for descriptions of any new or existing SaaS offering that could improve administrative services delivery within the next 24 to 36 months. The RFI addresses those services **outlined** by the Office of Management and Budget as a shared service, including financial management, human resources, acquisitions and IT.

USSM also wants to know how a proposed solution would square with the Federal Risk and Authorization Management Program, what the best practices are for procuring SaaS within a FedRAMP cloud and how the solution would be integrated into a government environment.

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Federal Marketplace Matters

Changes to protest rules could shift contracting preferences

The 2017 National Defense Authorization Act signed by President Barack Obama on Dec. 23 establishes thresholds for protests of task orders cut against large civilian and military indefinite-delivery contracts, which could push some defense contracts away from civilian agency contracting vehicles, according to a contracting expert.

The NDAA, said Paul Khoury, a partner at Washington, D.C., law firm Wiley Rein, restores the Government Accountability Office's ability to hear protests of task orders against civilian indefinite-delivery, indefinite-quantity contracts over \$10 million. The GAO's authority to hear civilian task order protests officially expired at the end of September.

The NDAA also allows GAO to hear protests of task orders against DOD IDIQs over \$25 million. The NDAA, Khoury said, bumped up the DOD contracting vehicle protest threshold from \$10 million.

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4 biggest issues facing next Veterans Affairs secretary

The next person who leads the **U.S. Department of Veterans Affairs** will have one of the biggest jobs in America.

He or she will inherit a bureaucracy with a \$182 billion budget and more than 340,000 employees at a time that promises to bring tumultuous change, including the question of whether VA medical services should be partly or wholly privatized.

There's also the challenge of meeting the diverse needs of its 6 million patients. The agency is dealing with both the Vietnam War generation, now facing the expensive illnesses of aging, and the recent wave of Iraq and Afghanistan veterans, who bring home battle-broken bodies and emotional wounds.

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To Keep Winning Federal Contracts, Small Businesses Say They Have to Spend More

Small businesses upped their efforts to bid on federal contracts, reporting a 72 percent increase in time and money devoted to winning a share of the government's \$90 billion procurement budget, according to the latest annual survey from the American Express OPEN for Government Contracting initiative.

Though overall federal contracting is down 19 percent in fiscal 2015 from fiscal 2010, the survey—completed last summer but released last month—found that, on average, small businesses spent \$148,124 in time and money to bid for federal work. That's a 72 percent increase over the past six years, and a 15 percent increase since 2013.

The most active contractors, however, are the largest, the AMEX study found. Those with 50 or more employees and \$5 million or more in revenues report being more active than they were five years ago, versus 34 percent that are less active and 29 percent making the same effort as before.

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Federal Marketplace Matters

Deltek Report: Federal Health IT Demand to Reach \$6.4B by Fiscal 2021

A new Deltek report predicts that U.S. federal government demand for vendor-furnished health information technology products and services will hit \$6.4 billion by fiscal year 2021 from \$6 billion in fiscal 2016 at a compound annual growth rate of 1.4 percent.

The "Federal Health Information Technology Market, 2016-2021" report forecasts that efforts to digitize, share, analyze and protect health information will foster strong federal spending in the health IT market through FY 2021.

The Centers for Medicare and Medicaid Services expects national health expenditures to reach \$5.6 trillion by 2025 and that the federal portion of such spending will increase by 86 percent to \$1.7 trillion in 2025 from \$920 billion in 2015.

Federal initiatives to address medical technology, population health, health care costs and medical fraud are also projected boost contract spending on health IT products and services.

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Civilian Task Order Jurisdiction Restored at GAO

On December 14, 2016, President Obama signed the "GAO Civilian Task and Delivery Order Protest Authority Act of 2016," which permanently restores the Government Accountability Office's ("GAO") protest jurisdiction over task and delivery orders valued at \$10 million or more issued under civilian agency indefinite delivery/indefinite quantity ("IDIQ") contracts. This jurisdiction previously expired on September 30, 2016, under the sunset provision in 41 U.S.C. § 4106(f)(3).

With regards to procurements by civilian agencies, 41 U.S.C. § 4106(f) provides generally that protests "in connection with the issuance or proposed issuance of a task or delivery order" are not authorized, although courts and GAO may consider protests that the order increases the scope, period, or maximum value of the contract under which the order is issued. The exception is for protests of an order valued in excess of \$10 million, over which GAO had exclusive jurisdiction. Under 41 U.S.C. § 4106(f)(3), however, GAO's jurisdiction over these protests expired on September 30, 2016.

Since that date, GAO has dismissed protests against the issuance of task and delivery orders under civilian agency IDIQ contracts, finding that it had no jurisdiction to hear the cases, even if the order was issued by a Department of Defense ("DoD") agency. For example, in [Wyle Laboratories, Inc.](#), GAO dismissed a protest challenging the Navy's issuance of a task order under the General Services Administration's ("GSA") One Acquisition Solution for Integrated Services ("OASIS") contract. *Wyle Laboratories, Inc.*, B-413989, Dec. 5, 2016. In dismissing the protest, GAO noted that, while the task order was issued by a DoD agency, and GAO has jurisdiction over "non-civilian agency task and delivery orders," the challenged procurement here was issued under a civilian IDIQ contract (GSA's OASIS multiple award IDIQ contract), and GAO's jurisdiction to hear protests regarding task orders issued against a multiple-award IDIQ contract vehicle awarded by a civilian agency expired on September 30, 2016.

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Federal Marketplace Matters

Mandatory Paid Sick Leave for Federal Contractors Takes Effect

As Jackson Kelly has previously reported, there is significant uncertainty regarding which of the many Executive Orders signed by President Obama will still be binding after President Trump's inauguration later this month; but some things will not change, at least in the short term. One of those is the new [requirement](#), from Executive Order 13706, that federal contractors provide paid sick leave to their employees, which took effect January 1.

This requirement will impact approximately 300,000 contractor employees, and requires federal contractors to provide up to seven days a year paid sick leave for employees working on covered federal contracts.

Employers must provide at least one hour of paid sick leave to federal contract employees for every 30 hours worked, up to 56 hours per year. Employees must be permitted, under the Order, to carry forward unused sick leave to the next year, but contractors are not required to allow their employees to "cash out" unused sick leave they have not used before terminating employment with the contractor.

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False Claims Act Recoveries: FY 2017 Picks Up Where FY 2016 Left Off

The U.S. Department of Justice is maintaining its momentum in the prosecution of alleged government contracting fraud. DOJ had its third largest year ever in terms of civil False Claims Act recoveries in Fiscal Year 2016, clawing back \$4.7 billion from government contractors accused of misconduct. And the latest trends for 2017 show that individual corporate executives (not just the companies themselves) should be on high alert in the year ahead.

On December 28, 2016, the U.S. Attorney's Office in Baltimore announced a \$4.535 million settlement with Advanced C4 Solutions, Inc. (Advanced C4). The settlement resolved claims that the SBA 8(a) small business contractor submitted inflated invoices from its subcontractor, Superior Communications Solutions, Inc. (Superior Communications), under a project management and labor services contract for work at Andrews Air Force Base (Joint Base Andrews). The contract required Advanced C4 to design, construct, and implement computer technology upgrades in support of the U.S. Air Force personnel working at Joint Base Andrews. The U.S. Navy's Space and Warfare Systems Command (Navy) awarded and administered the contract.

Under the terms of the contract, Advanced C4 was required to bill its labor costs, as well as those of its subcontractors, according to certain job classifications and the number of hours worked at each classification. Collectively, the Justice Department, the Air Force's Office of Special Investigations, DCIS, and the SBA investigated and determined that Advanced C4, and its project manager and vice president Andrew Bennett, passed false invoices from its subcontractor, Superior Communications, (and potentially others) through to the government.

The invoices allegedly charged for hours that were not worked and charged higher rates for personnel that did not meet the job classification requirements. The government paid the invoices, opening the door for False Civil False Claims Act charges. The Justice Department ultimately indicated three people, including Mr. Bennett, as well as a retired Navy contracting official, James T. Shank and John Wilkerson. Mr. Wilkerson owned another Advanced C4 subcontractor, Iron Bow Technologies, LLC, and was the part owner and operator of Superior Communications.

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Federal Marketplace Matters

New OPM guidance updates IT, cyber job coding

A Jan. 4 memorandum from the Office of Personnel Management explains **updated procedures** for identifying and coding federal positions with information technology and cyber-related functions.

The coding effort began in 2013 in an effort to minimize the federal cybersecurity knowledge, skills and abilities gap. Supporting requirements under the Federal Cybersecurity Workforce Assessment Act of 2015, OPM Acting Director Beth Cobert has shared how agencies will help further pinpoint crucial functions and federal civilian work roles through a broadening of the governmentwide cybersecurity data standard codes.

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Educational

All About the All Small Mentor- Protégé Program

In August of 2016, the Small Business Administration (SBA) set in motion a new program, similar to the 8(a) Business Development Mentor Protégé Program; however, it is all inclusive to benefit all small businesses.

According to the SBA website, the purpose of the new program is to develop strong protégé firms through mentor-provided business development assistance. The objective is to help protégés successfully compete for government contracts. Mentor-provided assistance can be sought for any, or all of the following activities:

- Management and Technical Assistance;
- Financial Assistance;
- Contracting Assistance;
- Trade Education;
- Business Development Assistance; and
- General and/or Administrative Assistance.

Here are a few highlights of the program you should be aware of:

- Protégés may only have one Mentor at a time, and a maximum of two (2 SBA Mentor Protégé Applications (MPAs) over a lifetime).
- Mentors cannot have more than 3 Protégés in the aggregate, at any one time.
- Protégés and Mentors must either be for-profit entities or agricultural cooperatives.
- Participants can be both a Protégé and a Mentor if no competition or conflict exists.
- Participants self-certify as a small business, in the North American Industry Classification System (NAICS) in which they're seeking business development assistance.
- SBA won't authorize MPAs in secondary NAICs in which the firm hasn't performed work.
- No reapplication required for 8(a) firms in the last 6 months of the 8(a) Program wishing to transfer their existing MPA to the All Small Mentor Protégé Program.
- No financial statements or tax returns required. Business plan (SBA-approved or other) required for consideration.

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Upcoming Events

Make sure you receive your invitation to **Southwest Acquisition Center's Industry Event in February**
[See more information](#)

MARCH 7-8, 2017 IFMIPS (51V, 03FAC) Industry Day Event
May 2017 the GSA Federal Acquisition Training Symposium penciled in for in Huntsville, Alabama, and
June 2017 the Professional Services Industry Day in Tacoma, Washington.



April 13 2017 B2G Conference & Expo Joint Base Langley / Eustice
[More Info](#)



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Compliance

General Services Administration Acquisition Regulation (GSAR); Fair Opportunity Complaints on GSA Contracts

General Services Administration (GSA) is issuing a final rule amending the General Services Administration Acquisition Regulation (GSAR) part 552, Solicitation Provisions and Contract Clauses at 552.216-74 Task and Delivery Orders. The final rule clarifies that the jurisdiction and responsibility to review and resolve fair opportunity complaints placed against GSA multiple-award contracts lies with the ordering-agency task and delivery order Ombudsman. Also, the final rule requires the ordering agency to include contact information for their task and delivery order Ombudsman when placing task or delivery orders against GSA multiple-award contracts. Finally, so that GSA can maintain insight into fair opportunity complaints that arise on orders other agencies place against these contracts, the final rule requires the contractor to provide a copy of its complaint to the GSA Procurement Ombudsman for informational purposes, at the same time the contractor files its complaint to the ordering agency for action.

This final rule is not required to be published for public comment because it does not have a significant impact on the public, contractors or offerors. This rule brings internal GSAR policy up-to-date with FAR policy. The change clarifies internal operating procedures by the Government by clarifying GSA's jurisdiction regarding fair opportunity complaints. The proposed rule comment period is impracticable as the FAR has already directed specific regulatory action.

[Read Final Rule](#)

