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Domain Expertise

GSA Releases Draft for Revised PSS Solicitation

As a part of the Making it Easier Initiative, the General Services Administration (GSA) has been revising the solicitation for the Professional Services Schedule (PSS). On Wednesday, April 26, GSA released a request for information (RFI) asking for feedback on the draft solicitation. The revised solicitation seeks to:

- Provide clear and concise instructions
- Eliminate repetition in the solicitation requirements
- Consolidate all pertinent information
- Allow customization of instruction provisions unique to the commodity by other MAS programs
- Remove unnecessary/obsolete/conflicting clauses

The Gormley Group was asked by GSA to provide suggested changes/comments prior to the release of this RFI. If you have any comments or would like to provide feedback on the draft, please send them along to your TGG consultant by Tuesday May 16th so that we may forward to GSA.

[RFI](#)





Federal Marketplace

Small Business Size Standards; Adoption of 2017 North American Industry Classification System for Size Standards

The U.S. Small Business Administration (“SBA”) has issued a proposed rule to amend its small business size regulations to incorporate the U.S. Office of Management and Budget’s North American Industry Classification System (“NAICS”) revision for 2017, identified as NAICS 2017, into its table of small business size standards. NAICS 2017 created 21 new industries by reclassifying, combining, or splitting 29 existing industries under changes made to NAICS in 2012 (“NAICS 2012”). SBA’s proposed size standards for these 21 new industries have resulted in an increase to size standards for six NAICS 2012 industries and a portion of one industry, a decrease to size standards for two, and a change in the size standards measure from average annual receipts to number of employees for one. There is no change in size standards for twenty industries and a portion of one industry.

SBA proposes to adopt the updated table of size standards, effective October 1, 2017.

Comments to the proposed rule are due on, or before, June 19, 2017.

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GSA to offer new way to buy satellite tech

The General Services Administration is about to change up the way agencies buy satellite technology.

The agency issued plans to expand its IT Schedule 70 with a new Special Item Number exclusively devoted to Earth Observation Solutions.

The new SIN, designated 132-41, has been in the works since February — when GSA released a request for information to industry on the possibility of spinning off IT grouping — and is projected to launch in early summer.

According to a GSA draft document, the EOS SIN will provide services for “global coverage, imagery, archive storage and distribution, monitoring, base maps (mosaics) and earth observation solutions for accurate, mission-critical information” that can be utilized for environmental, defense, meteorological and other uses.

“GSA is seeking to provide a one-stop-shop as new commercial imagery providers, capabilities and data solutions emerge in the Information Technology market to meet the needs of Federal, State, Local, Regional and Tribal governments,” agency officials said [in an April 28 post on its Interact site](#).

“By leveraging strategic sourcing and shared services, GSA’s IT Schedule 70 is in compliance with OMB guidance and offers opportunities for cross-government savings.”

GSA will host a webinar at 10 a.m. EST on May 18 to inform industry about the changes resulting from the new SIN.

The EOS SIN follows GSA’s March announcement that it was pursuing a new SIN for the Department of Homeland Security’s Continuous Diagnostics and Mitigation program with a request for information from industry.

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Federal Marketplace

Mega-contracts from GSA, DHS continue to spin on the protest hamster wheel

Two high-profile federal procurements continue to suffer delays because of bid protests.

GSA's \$50 billion Enterprise Infrastructure Solutions (EIS) telecommunications contract is back under a pre-award protest.

Windstream is the latest unhappy vendor, submitting a protest to the Government Accountability Office on April 17.

Meanwhile, the Homeland Security Department's multiple-award contract for agile services known as FLASH is back under protest.

GAO lists 12 complaints from unsuccessful bidders in two separate timeframes, mid-March and late April — after DHS made awards for the second time. DHS chose 11 vendors — as opposed to 13 last time around — to have a spot on the \$1.5 billion Flexible Agile Support for the Homeland (FLASH) deal.

[Read More](#)

US lawmakers reach 2017 budget deal through September

Bipartisan congressional negotiators have agreed to a sweeping \$1.16 trillion omnibus spending bill for 2017, with \$593 billion for the military. The deal, if passed, would fund the government through Sept. 30.

After funding the government at 2016 levels for more than half the fiscal year, Congress is expected to vote on a 2017 appropriations omnibus this week. The deal does not contain the border wall funding sought by President Donald Trump and opposed by Democrats, but it does contain \$1.5 billion in border security funding.

Republicans, who control Congress and the White House, sought to avoid a government shutdown that could reflect poorly on them, which provided leverage to Democrats, whose votes will likely be needed. Senate Minority Leader Chuck Schumer, D-N.Y., released a statement Sunday evening saying that the deal "is a good agreement for the American people, and takes the threat of a government shutdown off the table."

The deal contains less than half the \$30 billion defense supplemental Trump sought, but \$19.9 billion more than in the last year of the Obama administration.

Adding in emergency funds, the Pentagon's budget would total \$598.5 billion for 2017, according to a House Appropriations Committee fact sheet.

For defense, the bill contains \$223 billion in operations and maintenance funding, \$73.7 billion for research and development and \$123.3 billion for equipment procurement.

The bill rejects end-strength cuts sought by the Obama administration and funds an added 3,000 Army soldiers and 1,000 active-duty Marines. There's also a 2.1 percent pay raise, a half-percent higher than Obama requested.

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Federal Marketplace

Trump Creates New Tech Council to Tackle Federal IT Modernization

President Donald Trump wants to modernize [the federal government's aging IT systems](#) and the digital services they provide citizens, and he's established a council of agency heads and federal executives to help him do it.

[An executive order signed Monday May, 1](#) establishes the American Technology Council to "coordinate the vision, strategy and direction" of IT across government and provide advice regarding its use. "Americans deserve better digital services from their government," the order states. "To effectuate this policy, the federal government must transform and modernize its information technology and how it uses and delivers digital services."

Trump himself will chair the council and has designated Chris Liddell, the White House director of strategic initiatives, as its director.

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VA partners with Department of Energy on big-data initiative to improve health care for Veterans

Today the Department of Veterans Affairs (VA) and the Department of Energy (DOE) announced the formation of a new partnership focused on the secure analysis of large digital health and genomic data, or so-called "big data," from the VA and other federal sources to help advance health care for Veterans and others in areas such as suicide prevention, cancer and heart disease, while also driving DOE's next-generation supercomputing designs.

Known as the VA-DOE Big Data Science Initiative, the partnership will be based within DOE's [National Laboratory](#) system, one of the world's top resources for supercomputing. The effort will leverage the latest DOE expertise and technologies in big data, artificial intelligence and high-performance computing to identify trends that will support the development of new treatments and preventive strategies.

"VA has developed unparalleled health data trend information from some 24 million Veterans who have used VA for health care over the past two decades," said VA Secretary [Dr. David J. Shulkin](#). "We are partnering with DOE to use their high-performance computing capabilities to allow thousands of researchers access to this unprecedented data resource over time in a secure environment. The transformative science that will be developed through this partnership will improve health care for Veterans and all Americans."

DOE high-performance computing represents the state of the art in global computer science, involving machines capable of millions of billions of calculations per second. VA takes privacy seriously and has ensured all reasonable safeguards are in place to protect the records at the DOE National Laboratory

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Federal Marketplace

Industry Support Growing for Hurd's IT Modernization Bill

Just days after its reintroduction in the House, Rep. Will Hurd's, R-Texas, Modernizing Government Technology (MGT) Act has received an outpouring of industry support, praising the congressman's leadership in Federal IT and the bill's potential.

"Adobe applauds Congressman Will Hurd for reintroducing the Modernizing Government Technology Act, HR 2227, and urges Congress to move quickly to enact this important piece of legislation," said Adobe Vice President and Public Sector Chief Technology Officer John Landwehr. "Modernizing the Federal IT infrastructure is crucial to ensuring a stronger cybersecurity foundation. The Federal government on average spends nearly 80 percent of its IT budget on servicing and maintaining legacy IT systems, drowning out investments in newer technologies that often deliver better, more secure and less costly services to citizens."

Namely, members of industry praised the funding flexibility that the bill provides through both agency-based working capital funds and a governmentwide Technology Modernization Fund administered by the General Services Administration.

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Educational

Government Contracting 101: Duty of Good Faith and Fair Dealing

The contractual duty of "good faith and fair dealing" is well established in private contracts. Depending on your jurisdiction, there is very likely either a formal or an informal rule that parties to a contract must deal with each other honestly and in good faith. This is (usually) not a written contract term – rather, the duty is implied automatically in order to reinforce the parties' intent when entering into the agreement.

But, did you know that the same kind of duty exists in public contracts – and runs as a two-way street between contractors and the Federal government? It is true. And it can help your business in the pursuit of time or damages from the government as part of an [REA or Claim](#).

Implicit in every government contract is the duty for the government to treat the contractor fairly and act in good faith. Courts discussing this duty place both affirmative and negative obligations on the government. In other words, the government (1) must take active steps to enable the contractor's performance and (2) must not willfully or negligently interfere with said performance.

Allegations concerning a breach of the duty of good faith and fair dealing can arise in almost any contractual context. For example, it is very common to see such claims in the context of delay and disruption claims. The contractor seeks direction or guidance from the government on how to proceed with certain contract performance details – but the response from the government is delayed, unhelpful, or does not come at all.

A [recent Court of Federal Claims decision](#) also advises that contractors can proceed with fairly broad allegations concerning the government's breach of good faith and fair dealing as part of an appeal. Specifically, in response to a motion to dismiss by the government, the Court ruled that a such a claim does not need to be tied to a specific contractual obligation in order to demonstrate a violation.

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Upcoming Events

May 3, 2017 at 2:00 PM Eastern
 online Industry Meeting for Schedules
 23v and 751 vendors
<https://meet.gsa.gov/autovirtual/>
 Conference Number(s):
 US (Toll): [1-719-325-2013](tel:1-719-325-2013)
 US (Toll Free): [1-866-928-2008](tel:1-866-928-2008)

May 9-10, 2017 Schedule 84 Industry Day
 event in Dallas/Ft Worth
[Registration Details](#)

**May 11, 2017 CGP Spring Training
 Conference** 7:30 am – 6:00 pm at the
 Fairview Park Marriot.
[To Register](#)

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



Compliance

Defense Contractor Sentenced to 5 Years in Federal Prison for \$53 Million Procurement Fraud and Illegal Gratuities Scheme

On April 27, 2017, U.S. District Judge Marvin J. Garbis sentenced John Wilkerson, age 51, of Moultrie, Georgia to five years in prison, followed by three years of supervised release, for a wire fraud conspiracy and for paying illegal gratuities to a government official, in connection with the award of more than \$53 million in federal government contracts. Judge Garbis also ordered Wilkerson to pay forfeiture and restitution in the amount of \$9,441,340.11.

The sentence was announced by Acting United States Attorney for the District of Maryland Stephen M. Schenning; Commander of the Air Force Office of Special Investigations (OSI); Special Agent in Charge Robert Craig, Defense Criminal Investigative Service (DCIS), Mid-Atlantic Field Office; and U.S. Small Business Administration Acting Inspector General Mike Ware.

According to his plea agreement, Wilkerson was a Department of Defense Account Manager for Iron Bow Technologies, LLC (Iron Bow), which provided IT consulting and other services to government and industry customers. Wilkerson was also part owner and operated an information technology company, Superior Communications Solutions, Inc. (SCSI).

Andrew Bennett, who was separately charged and has pled guilty, was a program manager for an information technology company, Advanced C4 Solutions, or AC4S, from 2005 until 2011. In 2011, Bennett left AC4S and went to work for Wilkerson at SCSI.

James T. Shank, who was separately charged and has pled guilty, was a Program Manager at the United States Navy's Space and Naval Warfare (SPAWAR) Systems Center.

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