

FAS Cannot Provide Assurance That MAS Contract Pricing Results in Orders Achieving the Lowest Overall Cost Alternative - GSA Office of Inspector General

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Why We Performed This Audit

We performed this audit of the Federal Acquisition Service's (FAS) Multiple Award Schedule (MAS) program due to concerns about how its contracting personnel are performing price analyses for MAS contract awards and option extensions. Our objective was to determine whether FAS's contracting personnel are negotiating and awarding MAS contracts and option extensions in accordance with the intent of the MAS program, federal regulations, and FAS policy.

What We Found

According to the Competition in Contracting Act of 1984 (CICA), the procedures established under the MAS program are competitive as long as MAS orders and contracts result in the lowest overall cost alternative to meet the government's needs. However, after examining 20 recent MAS contract and option awards, we found that price analyses performed by FAS contracting personnel cannot provide customer agencies with assurance that orders placed against MAS contracts will result in the lowest overall cost alternative.

Our audit analyzed the pricing methodologies FAS used on MAS contracts that participate in the Transactional Data Reporting (TDR) pilot, as well as contracts that required Commercial Sales Practices (CSP) disclosures, and found that the price analyses under both methodologies were deficient. When performing price analyses on TDR pilot contracts, FAS contracting personnel do not have access to TDR data that can be used for pricing decisions and as a result, they mainly compared proposed pricing to other MAS and government contracts. However, this approach does not provide customer agencies with assurance that FAS achieved pricing that reflects the offerors' best pricing and will result in the lowest overall cost alternative to meet the government's needs. In addition, when we met with FAS contracting personnel, 7 of the 11 we interviewed expressed concerns to us about the TDR pilot's value to the MAS program and concluded that, in their opinion, the TDR pilot should be canceled.

Meanwhile, when performing price analyses for contracts subject to the CSP requirement, FAS contracting personnel frequently accepted commercial pricing information from offerors that was unsupported, outdated, or that identified no comparable commercial sales. As a result, FAS cannot provide customer agencies with assurance that MAS contract pricing will result in the lowest overall cost alternative to meet the government's needs.

What We Recommend

We recommend that the FAS Commissioner:

1. Cancel the TDR pilot in accordance with FAS Policy and Procedures 2016-11, *Transactional Data Reporting - Federal Supply Schedule Program Implementation, Paragraph 8(G), Pilot Cancellation*. We recognize that FAS rejected recommendations made in *GSA's Transactional Data Reporting Pilot Is Not Used to Affect Pricing Decisions*, Report Number A140143/Q/6/P21002, including that FAS develop and implement an exit strategy for the TDR pilot and transition participating contractors out of the TDR pilot.

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However, we continue to conclude that the TDR pilot should be canceled. After 6 years, the TDR pilot still has not resulted in a viable pricing methodology that ensures compliance with CICA's requirement for orders to result in the lowest overall cost alternative to meet the government's needs.

2. Inform customer agencies that they should perform separate and independent price determinations because relying on MAS contract pricing and following the ordering procedures in Federal Acquisition Regulation (FAR) 8.405, *Ordering procedures for Federal Supply Schedules*, may not ensure compliance with the CICA requirement that orders and contracts result in the lowest overall cost alternative. This should continue until the requirements and controls outlined in *Recommendation 3* are set in place to ensure compliance with CICA.
3. Establish requirements and controls to ensure that FAS contracting personnel adequately analyze CSP information: (1) to negotiate pricing consistent with CICA, FAR, and General Services Administration Acquisition Regulation 538.270-1, *Evaluation of offers without access to transactional data*; and (2) to clearly identify and support the determination of most favored customer pricing.
 - a. FAS should ensure that offerors provide its contracting personnel with detailed information about the sales volumes, terms and conditions of pricing agreements, and any additional transactional discounts or pricing terms offered to individual commercial customers that receive the best pricing for the products and services proposed for the MAS contract.
 - b. FAS should establish protocols that require offerors to submit other than certified cost or pricing data to support proposed pricing when offerors do not have comparable sales to customers outside of its MAS contract.
 - c. FAS should cancel FAS Policy and Procedures 2017-02, *Updated Procedures for Exercising the Option to Extend the Term of a Federal Supply Schedule Contract*, and develop and implement policy and procedures directing FAS's contracting personnel to perform price analyses of CSP disclosures provided by the offeror for MAS contract option extensions.
4. Explore new pricing methodologies that can ensure that FAS's contracting personnel are able to leverage aggregate government buying power to negotiate and award MAS contracts that result in orders that reflect the lowest overall cost alternative to meet the needs of the government.

The FAS Commissioner disagreed with the conclusions in this report and three of the four recommendations. The FAS Commissioner's response included: (1) FAS's perceived success of the TDR pilot; (2) a narrative regarding the established procedures that ensure compliance with CICA; (3) pricing analyses FAS believes support the premise that MAS contracts meet their intended purpose; and (4) FAS's position that it does not need any additional information to analyze CSP disclosures.

Based on our review of the FAS Commissioner's response, our conclusions remain the same. Price analyses performed by FAS contracting personnel to evaluate pricing on MAS contracts under both the TDR pilot, as well as contracts that require CSP disclosures, are deficient. As a result, these approaches do not provide customer agencies with assurance that orders placed against MAS contracts will result in the lowest overall cost alternative. Accordingly, we urge the FAS Commissioner to: (1) reconsider our recommendations and (2) develop corrective actions addressing our finding.

GSA's written comments are included in their entirety in **Appendix B**.

Business Line
Federal Acquisition Service

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