



Office of Audits
Office of Inspector General
U.S. General Services Administration

IMPLEMENTATION REVIEW OF CORRECTIVE ACTION PLAN

Review of Multiple Award
Schedule Vendors' Invoicing
Practices Relative to Prompt
Payment Discounts

Report Number A090026/Q/7/P10001

Dated March 15, 2010

Assignment Number A130063

August 20, 2013



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

DATE: August 20, 2013

TO: Thomas A. Sharpe, Jr.
Commissioner, Federal Acquisition Service (Q)

FROM: *for Paula Derman*
Grace D. McIver
Audit Manager, (JA-7)

SUBJECT: Implementation Review of Corrective Action Plan: Review of Multiple Award Schedule Vendors' Invoicing Practices Relative to Prompt Payment Discounts
Report Number A090026/Q/7/P10001, dated March 15, 2010
Assignment Number A130063

We have completed an implementation review of the management actions taken in response to the recommendations contained in the subject audit report (see **Appendix A**). The objective of our review was to determine whether the Federal Acquisition Service (FAS) has taken the corrective actions as outlined in the Action Plan for the *Review of Multiple Award Schedule Vendors' Invoicing Practices Relative to Prompt Payment Discounts*. To accomplish our objective, we:

- Reviewed the subject audit report, recommendations, and the approved action plan;
- Reviewed documentation submitted by FAS to the Office of Administrative Services' Government Accountability Office/Inspector General Audit Response Division to resolve action plan items; and
- Held discussions with FAS management and personnel.

Although FAS addressed the audit recommendations in its June 3, 2010, Action Plan, it has not taken all corrective actions (see **Appendix B**). In its August 7, 2013, response to the draft report, FAS provided new corrective actions (see **Appendix C**) for the previously-approved action items 2.2 and 7.3, which it believes will make FAS fully responsive to Report Number A090026/Q/7/P10001.

The Commissioner, Federal Acquisition Service (Q), is required to submit a revised action plan to the Government Accountability Office/Inspector General Audit Response Division (H1C) within 30 days showing the new corrective actions planned.

If you have any questions regarding this report, please contact me or any member of the audit team at the following:

Grace McIver	Audit Manager	Grace.McIver@gsaig.gov	(817) 978-7318
William Buob	Auditor-in-Charge	William.Buob@gsaig.gov	(817) 978-7316

On behalf of the audit team, I would like to thank you and your staff for your assistance during this review.

Background

On March 15, 2010, we issued an audit report to FAS entitled *Review of Multiple Award Schedule Vendors' Invoicing Practices Relative to Prompt Payment Discounts*. GSA negotiates prompt payment discount terms for many of its Multiple Award Schedule (MAS) contracts. Historically, OIG examinations of GSA contractors noted that some MAS contractors cited incorrect prompt payment discounts terms on their invoices. The OIG conducts a limited number of contract examinations each year; therefore, the extent of the problem and the potential financial impact (*i.e.*, lost discounts) to the Government is unknown.

The purpose of that review was to determine the extent to which the Government may be at risk of losing prompt payment discount savings as a result of MAS contractors citing incorrect payment terms on their invoices. In addition, the review evaluated selected internal controls within GSA's operations related to prompt payment discounts.

The review concluded:

- MAS contractors failed to cite correct payment terms on 75 percent (342 of 453) of selected invoices submitted for payment under GSA MAS task/purchase orders. Consequently, MAS customers are at risk of paying more than contractually obligated thus losing significant prompt payment discount savings.
- GSA internal controls related to order processing and contractor assessments need to be strengthened to help ensure prompt payment discounts are not lost. Of the 63 Orders for Supplies and Services (GSA Forms 300) we reviewed, 54 contained erroneous payment terms such as "Net 30 Days."
- GSA should consider taking a formal position regarding MAS customers' rights to negotiate away contractual prompt payment discount terms in exchange for other discount considerations. OIG audits of MAS contractors found that some MAS customers negotiated away prompt payment discount terms when entering into Blanket Purchases Agreements. The current language incorporated into GSA MAS contracts does not specifically grant MAS customers the authority to change or negotiate away prompt payment discount terms.

To address the issues identified in the report, we recommended that the FAS Commissioner:

1. Remind all MAS contractors of their contractual responsibility to include applicable prompt payment discount terms on invoices;
2. Seek recoveries, when economical, advisable, and feasible from MAS contractors who fail to cite contractual prompt payment discount terms on invoices;
3. Take corrective actions to ensure that the ITSS software application is corrected to allow entry of accurate contractual prompt payment discount terms for all applicable MAS contractors;

4. Take appropriate actions to ensure that GSA Forms 300, prepared manually and through the ITSS application, include applicable prompt payment discount terms in accordance with the GSA Acquisition Manual;
5. Take appropriate actions to ensure that Industrial Operations Analysts are aware of prompt payment discounts when conducting Contractor Assistance Visits;
6. Ensure that appropriate corrective actions are taken when Industrial Operations Analysts identify MAS contractor invoicing discrepancies during their Contractor Assistance Visits; and
7. Take a formal position as to whether ordering activities can or cannot negotiate away prompt payment discount terms.

The FAS Commissioner agreed with Recommendations 1 through 6, and partially agreed with Recommendation 7. FAS stated it would revisit the relevant Federal Acquisition Regulation and General Services Administration Acquisition Regulation (GSAR) clauses to determine if it is necessary to develop a formal policy addressing MAS customers negotiating away prompt payment discounts at the task order level. We responded that a formal position on the issue will either encourage more ordering activities to seek better upfront discounts if management authorizes them to do so, or discontinue the current practice if it is management's position that the practice is not within the ordering activities' authority.

Results

Our implementation review determined that the following corrective actions have not been taken:

- In response to Recommendation 2, FAS stated that it would work with its "business portfolios" and the Office of General Counsel to select a small population of MAS contracts where claims can be pursued on a pilot basis (see action item 2.2 in **Appendix B**). FAS, through its Industrial Operations Analysts, identified eight MAS contracts where contractors did not include prompt payment discounts terms on invoices. FAS has not pursued claims on seven of the eight contracts selected. As of April 3, 2013, FAS recovered \$689.72 from one contractor; its recovery efforts have not been effective or timely.

On June 11, 2013, FAS provided the results of an MAS contract compliance pilot project.¹ For the period April 9, 2013, to April 26, 2013, FAS conducted 487 contractor visits and reported issues on 159 contracts. FAS identified 52 contracts with prompt payment discount issues with potential overcharges of \$1,769,140.

Despite identifying additional contracts with prompt payment discount problems, FAS still does not have a plan to pursue recovery of the identified potential prompt payment overcharges. According to FAS, any further action regarding

¹ The pilot project was in response to the GSA OIG's March 8, 2013, memorandum titled, *Major Issues from Multiple Award Schedule Preaward Audits*, Audit Memorandum Number A120050-3.

the potential overcharge of \$1,769,140 is under the purview of the procuring contracting officer. Therefore, our position remains that FAS has not completely satisfied the corrective action plan for Recommendation 2.

- In response to Recommendation 7, FAS stated it would submit a business case to the Office of Government-wide Policy, Office of Acquisition Policy to develop and issue the appropriate policy, if regulatory policy or other policy changes were required (see action item 7.3 in **Appendix B**). On June 3, 2011, FAS submitted its business case to the Office of Government-wide Policy, Office of Acquisition Policy to justify a deviation from GSAR clause 552.238-8, Discounts for Prompt Payment. The purpose of the deviation was to permit ordering activities to negotiate away prompt payment discount terms established at the MAS contract level in exchange for better pricing in the form of a temporary price reduction at the order level. However, as of May 21, 2013, FAS has not received approval for the deviation.

On June 12, 2013, FAS provided notification it had not been successful in obtaining the requested deviation to the GSAR. FAS has since determined “the appropriate policy approach would be through the FAR rulemaking process, not deviating from the GSAR.” Specifically, FAS is “recommending a change to the FAR to ensure policy consistency and transparency in addressing recurring systemic infractions.” FAS estimates this process would take about 635 days from start to finish. Therefore, our position remains that FAS has not completely satisfied the corrective action plan for Recommendation 7.

Management Comments

FAS developed new corrective actions for the previously-approved action items 2.2 and 7.3, which it believes will make FAS fully responsive to Report Number A090026/Q/7/P10001. Management’s written comments to this report are attached in their entirety as **Appendix C**.

Action Required

The Commissioner, Federal Acquisition Service (Q), is required to submit a revised action plan to the Government Accountability Office/Inspector General Audit Response Division (H1C) within 30 days showing the new corrective actions planned.

Appendix A – Action Plan for Report Number A090026/Q/7/P10001

ACTION PLAN

Contact Person: Linda Smith
Telephone: 703.605.2915
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT-PAYMENT DISCOUNTS	1	September 15, 2010

Recommendation

Remind all MAS vendors of their contractual responsibility to include applicable PPD terms on invoices.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to BEI	Documentation will be sent by (date)
1	Write and issue a reminder to all Industrial Operations Analysts (IOAs) that they should be discussing MAS contractors' contractual responsibility to include PPD terms on invoices when they conduct Contractor Assistance Visits (CAVs).	A copy of the reminder notice	July 15, 2010
2	Write an article for the GSA Steps newsletter that reminds all MAS vendors of their contractual responsibility to include applicable PPD terms on invoices.	A copy of the final newsletter	September 15, 2010

Appendix A – Action Plan for Report Number A090026/Q/7/P10001 (cont.)

Contact Person: Judith Nelson
Telephone: 703.605.2593
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT-PAYMENT DISCOUNTS	2	July 15, 2011

Recommendation

Seek recoveries, when economical, advisable, and feasible from MAS vendors who fail to cite contractual PPD terms on invoices.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to BEI	Documentation will be sent by (date)
1	Work with the Office of General Counsel (OGC) to develop issue guidance in the form of a Instructional Letter (IL) or Procurement Information Notice (PIN) on define when "economical, advisable, and feasible" to seek recoveries	A copy of the guidance	March 15, 2011
2	Working with OGC and business portfolios to select a small population of MAS contracts where claims can be pursued on a pilot basis.	A copy of the selected contracts	July 15, 2011

Appendix A – Action Plan for Report Number A090026/Q/7/P10001 (cont.)

Contact Person: Thomas Howder
Telephone: 703.605.2582
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT- PAYMENT DISCOUNTS	3	August 15, 2010

Recommendation

Take corrective actions to ensure that the ITSS software application is corrected to allow entry of accurate contractual PPD terms for all applicable MAS vendors.

<u>Step</u>	<u>Action to be Taken Step by Step</u>	<u>Supporting Documentation to be Sent to BEI</u>	<u>Documentation will be sent by (date)</u>
1	Implement system changes to ITSS software application that will allow users to correctly input accurate contractual PPD terms for all applicable MAS vendors.	A copy of the release notes/requirements document	August 15, 2010

Appendix A – Action Plan for Report Number A090026/Q/7/P10001 (cont.)

Contact Person: Jolene Merkel
Telephone: 703.605.1882
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT-PAYMENT DISCOUNTS	4	December 15, 2010

Recommendation

Take appropriate actions to ensure that GSA Forms 300, prepared manually and through the ITSS application, include applicable PPD terms in accordance with the GSA acquisition manual.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to BEI	Documentation will be sent by (date)
1	Write and issue a PIN that ensures that acquisition personnel include applicable PPD terms in accordance with the GSAM when manually preparing GSA Forms 300.	A copy of the PIN	December 15, 2010

Appendix A – Action Plan for Report Number A090026/Q/7/P10001 (cont.)

Contact Person: Linda Smith
Telephone: 703.605.2915
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT- PAYMENT DISCOUNTS	5	July 15, 2010

Recommendation

Take appropriate actions to ensure that IOAs are aware of PPDs when conducting CAVs.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to BEI	Documentation will be sent by (date)
1	Write and issue revised guidance on PPD in the CAV Desk Guide.	A copy of the revised guidance	July 15, 2010

Appendix A – Action Plan for Report Number A090026/Q/7/P10001 (cont.)

Contact Person: Judith Nelson
Telephone: 703.605.2593
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT- PAYMENT DISCOUNTS	6	March 15, 2011

Recommendation

Ensure that appropriate corrective actions are taken when IOAs identify MAS vendor invoicing discrepancies during their CAVs.

<u>Step</u>	<u>Action to be Taken Step by Step</u>	<u>Supporting Documentation to be Sent to BEI</u>	<u>Documentation will be sent by (date)</u>
1	Write and issue guidance in the form of an IL or PIN on how corrective actions Contracting Officers may take when MAS vendor invoicing discrepancies are reported by the IOAs via CAV reports or by any other means.	Copy of the guidance	March 15, 2011

Appendix A – Action Plan for Report Number A090026/Q/7/P10001 (cont.)

Contact Person: Judith Nelson
Telephone: 703.605.2593
Date: June 3, 2010

Audit Report Number/Title	Recommendation Number	Completion Date
A090026/Q/7/P10001 REVIEW OF MULTIPLE AWARD SCHEDULE VENDORS' INVOICING PRACTICES RELATIVE TO PROMPT-PAYMENT DISCOUNTS	7	July 15, 2011

Recommendation

Take a formal position as to whether ordering activities can or cannot negotiate away PPDs, and if FAS takes exception to ordering activities negotiating away PPDs, they should take action(s) to ensure that such a practice does not continue.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to BEI	Documentation will be sent by (date)
1	Write and issue a PIN providing guidance on negotiating PPDs at the contract level.	A copy of the PIN	December 15, 2010
2	In conjunction with OGC develop a white paper that examines when FAR and GSAR changes are necessary and develops a formal position as to whether ordering activities can or cannot negotiate away PPDs.	A copy of the white paper	March 15, 2011
3	If regulatory policy or other policy changes are required, submit a business case to OGP, Office of Acquisition Policy, to develop and issue the appropriate policy.	A copy of the business case	July 15, 2011

Appendix B – A090026/Q/7/P10001 Corrective Action Matrix

Action Item	Corrective Action	Taken	Not Taken
1.1.	Write and issue a reminder to all Industrial Operations Analysts that they should be discussing MAS contractors' contractual responsibility to include prompt payment discount terms on invoices when they conduct Contractor Assistance Visits.	X	
1.2.	Write an article for the GSA Steps newsletter that reminds all MAS vendors of their contractual responsibility to include applicable prompt payment discount terms on invoices	X	
2.1.	Work with the Office of General Counsel to develop issue guidance in the form of an Instructional Letter or Procurement Information Notice on define when "economical, advisable, and feasible" to seek recoveries.	X	
2.2.	Working with the Office of General Counsel and business portfolios to select a small population of MAS contracts where claims can be pursued on a pilot basis.		X
3.1.	Implement system changes to the Information Technology Solution Shop software application that will allow users to correctly input accurate contractual prompt payment discount terms for all applicable MAS vendors.	X	
4.1.	Write and issue a Procurement Information Notice that ensures that acquisition personnel include applicable prompt payment discount terms in accordance with the General Services Administration Acquisition Manual when manually preparing GSA Forms 300.	X	
5.1.	Write and issue revised guidance on prompt payment discount in the Contractor Assistance Visit Desk Guide.	X	
6.1.	Write and issue guidance in the form of an Instruction Letter or Procurement Information Notice on what corrective actions contracting officers may take when MAS vendor invoicing discrepancies are reported by the Industrial Operations Analysts via Contractor Assistance Visit reports or by any other means.	X	
7.1.	Write and issue a Procurement Information Notice providing guidance on negotiating prompt payment discounts at the contract level.	X	
7.2.	In conjunction with the Office of General Counsel develop a white paper that examines when Federal Acquisition Regulation and GSAR changes are necessary and develops a formal position as to whether ordering activities can or cannot negotiate away prompt payment discounts.	X	
7.3.	If regulatory policy or other policy changes are required, submit a business case to the Office of Government-wide Policy, Office of Acquisition Policy, to develop and issue the appropriate policy.		X
	Total	9	2

Appendix C – Management Comments



GSA Federal Acquisition Service

AUG - 7 2013

MEMORANDUM FOR PAULA N. DENMAN

REGIONAL INSPECTOR GENERAL FOR AUDITING
GREATER SOUTHWEST FIELD OFFICE (JA-7)

FROM:

THOMAS A. SHARPE, JR.
COMMISSIONER
FEDERAL ACQUISITION SERVICE (Q)

Handwritten signature of Thomas A. Sharpe, Jr. and date 7/24/13

SUBJECT:

Response to Draft Implementation Review of Corrective Action
Plan: Review of Multiple Award Schedule Vendors' Invoicing
Practices Relative to Prompt Payment Discounts, Report
Number A090026/Q/7/P10001

The Federal Acquisition Service (FAS) is recommending the following corrective actions be included in the Office of Inspector General's (OIG) final report for Recommendation 2.2 and 7.3. These actions will make FAS fully responsive to Report Number A090026/Q/7/P10001.

Recommendation 2.2. Acquisition Management (QV) will develop a recovery plan not later than September 30, 2013 to pursue prompt payment overcharges. This recovery plan will be in accordance with FAR 32.6 that identifies collecting and deferring collection to include debt determination and demand for payment. This plan will be coordinated with OGP and OGC.

Recommendation 7.3. GSA will not pursue deviations or a regulatory change to insure consistent policy and transparency. In fact, GSA can achieve policy consistency and transparency in addressing recurring systemic infractions by issuing guidance through an Instructional Letter (IL). The IL will state that MAS customers do not have the authority to change or negotiate away prompt payment discount terms, and will require a solicitation refresh to incorporate such language into the "Information for Ordering Offices" section of each Schedule contract price list. Consistent messaging will also be placed in our online ordering tools.

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

Appendix D – Report Distribution

Commissioner, Federal Acquisition Service (Q)

Assistant Commissioner, Office of Acquisition Management (QV)

Inspector General, Office of Inspector General (J)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)

Deputy Assistant Inspector General for Acquisition Programs Audits (JA)

Division Director, GAO/IG Audit Response Division (H1C)

Assistant Inspector General for Investigations (JI)