



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

IMPLEMENTATION REVIEW OF CORRECTIVE ACTION PLAN

IT Reseller Contracts Present Significant Challenges for GSA's Schedules Program Report Number A120026/Q/6/P16003 July 22, 2016

Assignment Number A190046
May 20, 2019

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Introduction

We have completed an implementation review of the management actions taken in response to the recommendations contained in our July 2016 audit report, *IT Reseller Contracts Present Significant Challenges for GSA's Schedules Programs*, Report Number A120026/Q/6/P16003.

Objective

The objective of our review was to determine whether the Federal Acquisition Service (FAS) has taken the actions as outlined in the corrective action plan for *IT Reseller Contracts Present Significant Challenges for GSA's Schedules Programs* (see **Appendix A**). To accomplish our objective we:

- Reviewed the audit report, *IT Reseller Contracts Present Significant Challenges for GSA's Schedules Programs*, Report Number A120026/Q/6/P16003;
- Examined documentation submitted by FAS to support completion of the corrective action plan steps; and
- Corresponded with FAS personnel.

Background

Under the authority of the Federal Property and Administrative Services Act of 1949, GSA established the Multiple Award Schedules (Schedules) Program to provide a streamlined process for the government to obtain commercial products and services at volume discount pricing. The Schedules Program allows agencies to place orders directly with contractors with the assurance that the orders meet federal competition requirements because GSA has already made the determination that the pricing is fair and reasonable.

The Competition in Contracting Act of 1984, Public Law 98-369, states that orders placed under the Schedules Program meet competition requirements as long as they result in the lowest overall cost alternative to meet the government's needs. To enable ordering agencies to meet this requirement, GSA's negotiation policy is to obtain the best price granted to the supplier's most favored commercial customer under the premise that the commercial marketplace establishes the best pricing. If the most favored customer pricing is not achieved, the contracting officer should ask the offeror to explain and justify the reason, such as differing terms and conditions between commercial and government sales.

Once a schedule contract is awarded, GSA ordering procedures for the Schedules Program provide specific instructions for government agencies to ensure that orders placed under the contract result in the lowest overall cost to meet their needs. FAS's Office of IT Schedule Programs manages the information technology (IT) schedule, which was the largest of the program's 24 schedules, at the time of our original audit. FAS awards IT schedule contracts to

both manufacturers and resellers of IT equipment, software, and services. The majority of IT schedule contracts from August 2014 to July 2015, were with resellers.

On July 22, 2016, we issued an audit report, *IT Reseller Contracts Present Significant Challenges for GSA's Schedules Programs* to the FAS Commissioner. The objective of the audit was to evaluate how IT schedule resellers affect schedule pricing, procurement workload, and the enforcement of contract clauses.

Our audit found:

- GSA offers many identical items on its IT schedule at widely varying prices, and lower commercial prices are available for many of the schedule items.
- Price protections are diminished when IT schedule resellers have low or no commercial sales and when the Price Reductions Clause is modified to exclude certain sales.
- IT schedule reseller contracts with low or no schedule sales add to GSA workload and represent millions in unnecessary costs to the government.

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

1. Establish procedures to ensure that price variances for identical schedule items are supported by price analyses documenting additional concessions or services received on higher priced items. Otherwise, the identical items should not be awarded at the higher price.
2. In conjunction with the FAS Office of Acquisition Management, establish performance measures for FAS IT schedule contracting staff that reinforce the objective to obtain the resellers' most favored customer prices for schedule contract items during price negotiations.
3. Improve price protection for IT schedule reseller contracts by:
 - a. Establishing controls to ensure that contracting officers obtain accurate, current, and complete manufacturer commercial sales practices information for offered items when the resellers have low or no commercial sales. The controls should ensure that the specific items involved are not awarded until commercial sales practices information is provided; and
 - b. Establishing controls to ensure that deviations to the Price Reductions Clause do not diminish price protections and are properly approved by the Head of the Contracting Activity.
4. Cancel IT schedule reseller contracts that do not meet the \$25,000 minimum sales requirement of the Schedules Program, focusing initially on those with no sales; or document the contract files to support decisions to maintain the contracts.
5. Consider increasing the \$25,000 minimum sales threshold for IT schedule reseller contracts to a level that offsets the government's cost to award and administer a schedule contract.
6. Consider alternatives to the current \$2,500 minimum payment clause in IT schedule reseller contracts.

The Deputy Assistant Commissioner, FAS Integrated Technology Services, concurred with our report recommendations.

Results

Our implementation review determined that FAS has taken appropriate corrective actions to address the recommendations. We determined that no further action is necessary.

Audit Team

This review was managed out of the Heartland Region Audit Office and conducted by the individuals listed below:

Jay Fisher
Andrea Clarke

Acting Regional Inspector General for Auditing
Auditor-In-Charge

Appendix A – Corrective Action Plan for Report Number A120026/Q/6/P16003

(A120026/Q/6/P16003) Action Plan

Designated Responding Official: [REDACTED]

Contact Person: [REDACTED]

Telephone Number: [REDACTED]

Date: September 22, 2016

<p>A120026/Q/6/P16003 IT Reseller Contracts Present Significant Changes for GSA's Schedules Program</p>	<p>Recommendation 001</p>	<p>Proposed Recommendation Completion date (Month/Year)</p> <p>June 2017</p>
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Recommendation

Establish procedures to ensure that price variances for identical schedule items are supported by price analyses documenting additional concessions or services received on higher priced items. Otherwise, the identical items should not be awarded at the higher price.

<p><u>Action to be Taken Step by Step</u> Enter each step to be taken to implement recommendation (Must be three numerical digits starting with 001 and will be continuous)</p>	<p><u>Supporting Documentation to be sent to H1G</u> Enter the type of documentation that will be sent to confirm completion of each step</p>	<p><u>Documentation will be sent the last day of</u> Enter the due date that each step will be completed by (Month/day/year)</p>
<p>001 IT Schedule 70 will address the findings and establish and implement procedures via an Operational Notice (ON) entitled "Evaluating and Awarding Reseller Offers/Contracts" to ensure that price variances for identical schedule items are supported by price analysis.</p>	<p>Final Operational Notice (ON)</p> <p>Revisions to be made to the following documents: Pre Negotiation Memorandum Price Negotiation Memorandum Contract Operations Desk Guide Quality Review Checklist</p>	<p>December 31, 2016</p>

Appendix A – Corrective Action Plan for Report Number A120026/Q/6/P16003 (cont.)

(A120026/Q/6/P16003) Action Plan

Designated Responding Official: [REDACTED]

Contact Person: [REDACTED]

Telephone Number: [REDACTED]

Date: September 22, 2016

<p>A120026/Q/6/P16003 IT Reseller Contracts Present Significant Changes for GSA's Schedules Program</p>	<p>Recommendation 002</p>	<p>Proposed Recommendation Completion date (Month/Year) May 2017</p>
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Recommendation

In conjunction with the FAS Office of Acquisition Management, establish performance measures for FAS IT schedule contracting staff that reinforce the objective to obtain the resellers' most favored customer prices for schedule contract items during price negotiations.

<p><u>Action to be Taken Step by Step</u> Enter each step to be taken to implement recommendation (Must be three numerical digits starting with 001 and will be continuous)</p>	<p><u>Supporting Documentation to be sent to H1G</u> Enter the type of documentation that will be sent to confirm completion of each step</p>	<p><u>Documentation will be sent the last day of</u> Enter the due date that each step will be completed by (Month/day/year)</p>
<p>1 IT Schedule 70 will work in coordination with the MAS Governance Council and the Office of Policy and Compliance to establish performance measurements to be applied across the MAS Program.</p>	<p>Final language to be incorporated into the acquisition workforce's performance plans</p>	<p>March 31, 2017</p>
<p>2 IT Schedule 70 will draft and implement an Operational Notice (ON) on "Evaluating and Awarding Reseller Offers/Contracts" to clearly outline to COs/CSs the objective to obtain the Reseller's Most Favored Customer (MFC) pricing during price negotiations. Given the onset of the implementation of the Transactional Data Rule (TDR) on or about November 2016, the ON will only provide guidance for</p>	<p>Final Operational Notice (ON)</p>	<p>NLT December 31, 2016</p>

**Appendix A – Corrective Action Plan for Report Number
A120026/Q/6/P16003 (cont.)**

<p>those contracts not covered by TDR. Additionally, the ON will include language to reinforce this objective by including it in the Pre-negotiation Clearance Panel (PNCP) reviews (IL-2011-15/Supplement) as a measure to track maintenance of the relationship via modifications throughout the life of the contract.</p>		
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Appendix A – Corrective Action Plan for Report Number A120026/Q/6/P16003 (cont.)

(A120026/Q/6/P16003) Action Plan

Designated Responding Official: [REDACTED]

Contact Person: [REDACTED]

Telephone Number: [REDACTED]

Date: September 22, 2016

<p>A120026/Q/6/P16003 IT Reseller Contracts Present Significant Changes for GSA's Schedules Program</p>	<p>Recommendation 003</p>	<p>Proposed Recommendation Completion date (Month/Year) June 2017</p>
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Recommendation

Improve price protection for IT schedule reseller contracts by:

- a. Establishing controls to ensure that contracting officers obtain accurate, current, and complete manufacturer commercial sales practices information for offered items when the resellers have low or no commercial sales. The controls should ensure that the specific items involved are not awarded until commercial sales practices information is provided;
- b. Establishing controls to ensure that deviations to the Price Reductions clause do not diminish price protections and are properly approved by the Head of the Contracting Activity.

<p><u>Action to be Taken Step by Step</u> Enter each step to be taken to implement recommendation (Must be three numerical digits starting with 001 and will be continuous)</p>	<p><u>Supporting Documentation to be sent to H1G</u> Enter the type of documentation that will be sent to confirm completion of each step</p>	<p><u>Documentation will be sent the last day of</u> Enter the due date that each step will be completed by (Month/day/year)</p>
<p>001 - As with recommendation #2, IT Schedule 70 will draft and implement an Operational Notice (ON) on "Evaluating and Awarding Reseller Offers/Contracts" to clearly delineate differences between the Reseller and OEM pricing models. The ON will clarify that all offers/contracts (Resellers and OEMs) must be evaluated based on the same methodology of Commercial Sales Practices (CSP) and then tied to a Most Favored Customer (MFC) to appropriately align to the Price Reductions Clause (PRC). The ON</p>	<p>Final Operational Notice</p>	<p>NLT December 31, 2016</p>

**Appendix A – Corrective Action Plan for Report Number
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<p>shall also clarify the need to involve ITS' Head of the Contract Activity (HCA) in the event that an exception to the PRC is being considered. Given the onset of the implementation of the Transactional Data Rule (TDR) on or about November 2016, the ON will only provide guidance for those contracts not covered by TDR.</p> <p>2 IT Schedule 70 shall revise its Contracting Operation Desk Guide and "Quality Review Checklists" to accommodate the pricing methodology and process. For monitoring and tracking purposes, affected offers/contracts will require first and second level reviews by Team Leaders and/or Branch Chiefs.</p> <p>3 IT Schedule 70 shall collaborate with the Office of Acquisition Management (QV) to establish training on the ON and other internal guidance that may be issued within FAS.</p>	<p>Revised Contracting Operation Desk Guide; Pre/Price Negotiation Memorandum templates, Modification Guidance Package, and Quality Review Checklists</p> <p>Powerpoint Presentation</p>	<p>NLT December 31, 2016</p> <p>March 31, 2017</p>
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Appendix A – Corrective Action Plan for Report Number A120026/Q/6/P16003 (cont.)

(A120026/Q/6/P16003) Action Plan

Designated Responding Official: [REDACTED]
 Contact Person: [REDACTED]
 Telephone Number: [REDACTED]
 Date: September 22, 2016

A120026/Q/6/P16003 IT Reseller Contracts Present Significant Changes for GSA's Schedules Program	Recommendation 004	Proposed Recommendation Completion date (Month/Year) June 2017
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Recommendation

Cancel IT schedule reseller contracts that do not meet the \$25,000 minimum sales requirement of the Schedules Program, focusing initially on those with no sales; or document the contract files to support decisions to maintain the contracts.

<u>Action to be Taken Step by Step</u> Enter each step to be taken to implement recommendation (Must be three numerical digits starting with 001 and will be continuous)	<u>Supporting Documentation to be sent to H1G</u> Enter the type of documentation that will be sent to confirm completion of each step	<u>Documentation will be sent the last day of</u> Enter the due date that each step will be completed by (Month/day/year)
1 In accordance with FAS Instructional Letter (IL) 2013-02 and Operational Notice (ON) AO-2010-005, IT Schedule 70 will continue to monitor and track contractors (inclusive of Resellers) for low/no sales via its Productive Contracts Team. In addition, IT Schedule 70 will monitor the number of Reseller contracts that are canceled.	FAS IL 2013-02 Productive Contracts Team Stats (Attachment C) Success Stories to support current process (resellers/small businesses)	September 30, 2016
2 IT Schedule 70 will revise the existing "memorandum to file" template for use between the Productive Contracts Team and the CO to document the retention of a contract.	Final "Memorandum to File" template format	September 30, 2016
003 IT Schedule 70 will collaborate	Minutes addressing potential resolution	Dec 19, 2017 (pending IG approval)

**Appendix A – Corrective Action Plan for Report Number
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with the Office of Acquisition Management (QV) to engage in discussions with the MAS Governance Council Policy Sub-committee to discuss proposed revisions to FAS Clause I-FSS-639, Contract Sales Criteria (MAR 2002) with regard to all Schedules under the MAS Program.		
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**Appendix A – Corrective Action Plan for Report Number
A120026/Q/6/P16003 (cont.)**

(A120026/Q/6/P16003) Action Plan

Designated Responding Official: [REDACTED]
 Contact Person: [REDACTED]
 Telephone Number: [REDACTED]
 Date: September 22, 2016

A120026/Q/6/P16003 IT Reseller Contracts Present Significant Changes for GSA's Schedules Program	Recommendation 005	Proposed Recommendation Completion date (Month/Year) June 2017
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Recommendation

Consider increasing the \$25,000 minimum sales threshold for IT schedule reseller contracts to a level that offsets the government's cost to award and administer a schedule contract.

<u>Action to be Taken Step by Step</u> Enter each step to be taken to implement recommendation (Must be three numerical digits starting with 001 and will be continuous)	<u>Supporting Documentation to be sent to H1G</u> Enter the type of documentation that will be sent to confirm completion of each step	<u>Documentation will be sent the last day of</u> Enter the due date that each step will be completed by (Month/day/year)
001 IT Schedule 70 will engage the Office of Acquisition Management (QV) as well as the MAS Governance Sub-Committee for Policy to address this issue. The \$25,000 minimum sales is a standard across the MAS Program.	TBD; May require a change at the MAS Program level in the form of a Policy and Procedure (PAP) Memo further supported by localized guidance (Operational Notice) within the IT Schedule 70 Program.	NLT December 31, 2016

Appendix A – Corrective Action Plan for Report Number A120026/Q/6/P16003 (cont.)

(A120026/Q/6/P16003) Action Plan

Designated Responding Official: [REDACTED]
 Contact Person: [REDACTED]
 Telephone Number: [REDACTED]
 Date: September 22, 2016

A120026/Q/6/P16003 IT Reseller Contracts Present Significant Changes for GSA's Schedules Program	Recommendation 006	Proposed Recommendation Completion date (Month/Year) June 2017
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Recommendation

Consider alternatives to the current \$2,500 minimum payment clause in IT schedule reseller contracts.

<u>Action to be Taken Step by Step</u> Enter each step to be taken to implement recommendation (Must be three numerical digits starting with 001 and will be continuous)	<u>Supporting Documentation to be sent to H1G</u> Enter the type of documentation that will be sent to confirm completion of each step	<u>Documentation will be sent the last day of</u> Enter the due date that each step will be completed by (Month/day/year)
001 IT Schedule 70 will collaborate with the Office of Acquisition Management (QV) and the MAS Governance Council Sub-Committee - Policy to discuss alternatives/revisions to FAS clause I-FSS-106, Guaranteed Minimum (JUL 2003), particularly for Reseller contracts. A possible alternative may be to eliminate the FAS clause and follow the appropriate FAR clause/citation.	Minutes and notes taken during the meeting and documenting agreement on a resolution and course of action to address audit recommendation and finding as stated in the final audit report	Dec 19, 2017 (pending approval by the IG)

Appendix B – Report Distribution

GSA Administrator (A)

FAS Commissioner (Q)

Deputy Commissioner (Q1)

Chief of Staff (Q)

Assistant Commissioner, Office of Integrated Technology Services (QT)

Assistant Commissioner, Office of Acquisition Management (QV)

Program Management Officer (QV0E)

Financial Management Officer, FAS Financial Services (BGF)

Director, Office of IT Schedule (QTF)

Chief Administrative Services Officer (H)

GAO/IG Audit Management Division (H1G)

Assistant Inspector General for Auditing (JA)

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