



# ***FSS 201 – TRAINING***



*Successfully Administering Your FSS  
Contract for Maximum Results*





# *INTRODUCTION*

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- Agenda
- Handouts
- General Information
  - NAC Industry Conference
  - Assistance
  - Cell phones and/or blackberries

# ***Post-Award Actions***

## ■ **Contract Administration**

### □ Request for Modification

- Modification Process
- Price Reduction Clause (PRC)
- Economic Price Adjustment Clause (EPA)

# ***Post-Award Actions***

- **Contract Performance and Deliverables**
  - Supplemental FSS Price List
  - GSA Advantage
  - Contractor Report of Sales – Industrial Funding Fee
  - Subcontracting Plans

# ***Post-Award Actions***

## **After the contract is awarded**

- The vendor must prepare and distribute an “*Authorized Federal Supply Schedule Pricelist*” to the VA National Acquisition Center. (Paper and Electronic)
  - GSA Advantage & Contracting Officer Review System (CORS)
- Maintain Authorized FSS Schedule Pricelist and provide copies to any authorized schedule user, upon request.

# ***Contract Modification***

## ■ **Clause 552.243-72, Modifications (Multiple Award Schedule)**

- Contractor may request a contract modification by submitting a request along with the required Request for Modification Form to the Contracting Officer for approval.
- At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

# ***Contract Modification***

- **Modification Clause 552.243-72** – During the performance of the contract, the contractor may:
  1. Delete obsolete products and services
  2. Add new products and services
  3. Administrative changes
  4. Item number changes
  5. Novation/Name change
  6. Clauses updated by the NAC
- **Economic Price Adjustment (EPA) 552.216-70** – This clause allows contractors to increase/decrease prices in accordance with their commercial practice. Requests for price decreases may be submitted anytime during the contract period.
- **Price Reduction Clause 552.238-75** – The Government's price or discount relationship to the established tracking customer (individual or category of customer) must be maintained throughout the life of the contract.

*(Refer to Attachment 1)*

# ***Processing of Modification Actions***

- Effective submission and timely processing take into account:
  - The number of modification requests submitted
  - The length of time between submission
  - The inclusion of the modification request form
  - The inclusion of supporting documentation with the modification requests



# ***Product Deletions***

- Contractors must provide an explanation for the deletion.
- Government reserves right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if it is determined the higher price is unreasonable in comparison.

# Product Deletions

(Refer to Attachment 2)

**PRODUCT DELETIONS: Clause 552.243-72 Modifications (Multiple Award Schedule) (Jul 2000) Alt I**

**(Sept 1999:**

Special Item Number (SIN) \_\_\_\_\_.

A) Documentation for product deletion.

B) Provide a listing of the items being proposed for deletion; including the name, item number, description of the product and **reason for deletion** (i.e. discontinued manufacturing, etc.)

(See required format below)

**PRODUCT DELETION**

Please submit this information in a minimum **FONT SIZE OF 12.**

| Reason for deletion | SIN  | Product Name | Product # | QTY | UOM |
|---------------------|------|--------------|-----------|-----|-----|
| Discontinued        | A-10 | Widgets      | 1234      | 1   | ea  |

**NOTE:** If there are multiple line items, please submit all items on an excel spreadsheet, however you must submit Pg-10 & 11 of the Request for Modification Form.

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# ***Product Additions***

- SAME AS NEGOTIATING A NEW OFFER
  - Commercial Pricelist
  - Letter of Commitment from manufacturer(s), (*if a distributor*)
- REQUEST FOR MODIFICATION FORM
  - Delivery time(s) (*clause 552.211-78*)
  - Production point(s) (*clause 52.215-6*)
  - Hazardous Material information (*clause 52.223-3*)
  - Trade Agreement compliance (*clause 52.212-3(f)*)

# ***Request for Modification – Product Additions***

*(Refer to Attachment 2)*

Contractor Name: \_\_\_\_\_

Date submitted to VANAC: \_\_\_\_\_

Contract No.: V797P-\_\_\_\_\_

FSS Schedule: Please check the correct schedule:

( ) 65 Part II, Section A – Medical Supplies & Equipment

**PRODUCT ADDITIONS:** Special Item Number (SIN) Category: \_\_\_\_\_

A) Provide below the proposed delivery time and manufacturing location(s) for the offered items. (This may be the same as the initial award, but must be restated for the proposed items.)

DELIVERY TIME \_\_\_\_\_ days ARO

MANUFACTURING NAME AND  
COMPLETE ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
(DO NOT list distributors or P. O. Box Number) \_\_\_\_\_

MANUFACTURER'S CONTACT PERSON: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_

B) Provide a preprinted dated, commercial price list for the proposed items.

**If a preprinted Commercial Price List is not available, provide a dated, internal pricing document(s) that clearly identify the commercial list price of the items proposed; verify that pricing provided is true and correct; date and sign the internal pricing document.**

C) Provide a listing of the following information for each item(s) offered:

- 1) Proposed Net FSS price.
- 2) Proposed discount off the commercial price list.
- 3) **Either** Actual **or** Estimated Commercial Annual sales for **each** item offered.
- 4) **Either** Actual **or** Estimated Annual Government sales for **each** item offered.

# Request for Modification – Product Additions

## PRODUCT ADDITIONS (CONTINUED)

E) Identify your lowest commercial price for each item offered, as described below:

1) If the lowest price is being proposed to the Government, identify your Most Favored Customer Commercial (MFC), the price this customer receives and whether this customer is the agreed upon tracking customer or within the category of customers awarded under your contract.

2) If the lowest price **is not** being offered to the Government, then provide all of your firm's **commercial prices that are lower which represent significant and frequent discounting practices excluding true ad hoc discounts**. Include the following information for all items: product name, commercial price, name of the commercial customer receiving this price, justification why the Government was not offered this lower price.

3) Because these are product additions and no tracking customer has been agreed upon for these items, please provide a proposed tracking customer or category of customers for these items. This will not affect the previously awarded items and the previously agreed upon tracking customer or category of customers.

F) Is/Are the item(s) being offered for distribution under the Prime Vendor Program?

YES \_\_\_\_\_ NO \_\_\_\_\_

G) Complete the following certification:

I, \_\_\_\_\_ certify that items offered are not replacements for previously deleted items with a lower cost.

\*\*\*\*\*

**NOTE:** The effective date of the modification will be determined at the time of approval of the request by the Contracting Officer. **Effective dates will be assigned as either the 1st or 15th of the month.** Approval of the modification is contingent upon your **publication and distribution of a supplement** to the FSS price list.

PLEASE PROVIDE AUTHORIZED SIGNATURE AND DATE BELOW:

\_\_\_\_\_  
Signature and title of authorized person Date

\_\_\_\_\_ Approved \_\_\_\_\_ Approved as Amended \_\_\_\_\_ Disapproved

\_\_\_\_\_  
Signature of Contracting Officer Date Effective Date

# Request for Modification – Product Additions Sample

## PRODUCT ADDITIONS (CONTINUED)

Prime Vendor Participation: VA ( ) Yes ( ) No

Proposed Tracking Customer(s) for item(s) being added for purposes of the Price Reduction Clause: \_\_\_\_\_

Is the MFC the previously agreed upon tracking customer or within the tracking customer category? YES \_\_\_\_\_ NO \_\_\_\_\_

## PRODUCT ADDITIONS

Provide the following information for each item to be added to your contract. Please submit this information in a minimum **FONT SIZE OF 12**.

**Commercial Information** (See Commercial Sales Practices section of your contract for instructions)

| SIN | Product No. | Product Name | FDA Registration Number | Commercial List Price | Estimated/Actual Annual Comm. Sales | *MFC Name | *MFC Price | MFC Discount off List Price | Quantity/ Volume (include quantity or volume tiers) | FOB Terms | Additional Discounts or Concessions (i.e. PPD Terms) |
|-----|-------------|--------------|-------------------------|-----------------------|-------------------------------------|-----------|------------|-----------------------------|---|-----------|--|
| A-3 | 1234        | Bandages     |                         | \$10.00               | \$50,000.00                         | ABC Co.   | \$5.00     | 50%                         | None  | Origin    | None   |

\* Most Favored Commercial Customer - See page 2, paragraph E, (1) & (2). Also, if paragraph E, (2) applies, please include a separate spreadsheet with all required information.

## FSS Information

| SIN | Product No. | Product or Item Name | QTY | Unit of packaging | Estimated/Actual Annual Gov't. Sales | Percent (%) Discount off commercial list price | Proposed NET FSS Price |
|-----|-------------|----------------------|-----|-------------------|--------------------------------------|--|------------------------|
| A-3 | 1234        | Bandages             | 10  | Ea                | \$20,000.00                          | 50%  | \$5.00                 |

**NOTE: If there are multiple line items, please submit all items on an excel spreadsheet, however you must submit Pg-3 of the Request for Modification Form.**

\*Prompt Payment Discount Terms (PPD Terms); \*Special Item Number (SIN); \*Quantity (QTY); \*Most Favored Customer (MFC)

# ***Price Reductions & Increases***

## ■ Objective:

- Provide an overview of clauses applicable to price reductions and price increases
- Discuss Contractor and Government responsibility
- Provide examples of request for price decreases and increases

# ***Price Reductions***

- Authority:

- Price Reduction Clause (PRC) – 552.238-75  
*(Refer to Attachment 1)*

- Purpose:

- Ensure the Government maintains fair and reasonable pricing throughout the contract period



# ***Price Reductions***

- Price Reduction Clause (PRC)– 552.238-75
  - Establishment of commercial relationship that is tracked against:
    - Awarded FSS Price
    - BOA Customer Price
    - Commercial List Price relied upon during negotiations
  - Agreement of both parties
  - Order Limitations – Maximum Order

# ***Price Reductions***

- Price Reduction Clause (PRC)– 552.238-75

- Tracking Customer ratio is determined by dividing the net price to the government by the net price to the Tracking Customer/Category.

$$\text{Tracking Ratio} = (\text{FSS Price} / \text{MFC Price})$$

- If the ratio is disturbed with a decrease to the tracking customer, an automatic decrease must be given to the government
- The established tracking customer ratio is maintained throughout the contract period

- Change in Tracking Customer:

- Commercial agreement with tracking customer expires, canceled or merged with another group, the CO shall be notified within 10 calendar days after the event occurs, and if possible, before the event occurs.

# ***Price Reductions***

- Changes to Relationship Trigger the Clause
  - Revised commercial catalog to reduce prices
  - Granted better discounts or terms and conditions than those offered in the commercial catalog
  - Granted additional discounts to the tracking customer, disturbing the established tracking ratio
    - Offered for the same length of time
    - Notify the Government within 15 days

# ***Price Reductions***

- Does not Trigger Price Reduction Clause:
  - Sales outside the basis of tracking customer/category
  - Sales to commercial customers which exceed the maximum order threshold
  - Additional discount to a single federal facility (Spot Discounts)

# Price Reduction – Modification

(Refer to Attachment 2)

**PRICE REDUCTIONS:** (See Price Reduction Clause in your contract.) Special Item Number (SIN) \_\_\_\_\_.

A) The requested price reduction is made for the following reason(s) (mark all that apply):

- 1)  Voluntary, to Government only.
- 2)  Revised commercial catalog, price list, schedule or other document upon which the contract award was predicated, to reduce prices; If a preprinted Commercial Price List is not available, provide a dated, internal pricing document(s) that clearly identify the commercial list price of the items proposed; verify that pricing provided is true and correct; date and sign the internal pricing document.
- 3)  Granted more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, or other documents upon which the contract award was predicated; or
- 4)  Granted special discounts to the tracking customer (or category of tracking customer) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the Tracking Customer (or category of customer) that was the basis of award. The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the Tracking Customer.

**\*If 2, 3 or 4 is marked, Contractor must submit a copy of the applicable catalog, price list, contractor bulletin, letter or customer agreement which details the effective date, duration, terms and conditions of the price reduction.**

B) Indicate below if the price reduction being offered is temporary or permanent. If temporary, indicate the applicable time frame.

Permanent  Temporary (Time Frame: \_\_\_\_\_)

C) Provide on an attachment, the item(s) to be reduced, item#, current FSS pricing, proposed reduced pricing, and if temporary, please provide the time frame.

D) Provide documentation/justification for the price reduction on company letterhead.

\*\*\*\*\*

**NOTE:** The effective date of the modification will be determined at the time of approval of the request by the Contracting Officer.

**Effective dates will be assigned as either the 1st or 15th of the month.** Approval of the amendment is contingent upon your **publication and distribution of a supplement** to the FSS price list. PLEASE PROVIDE AUTHORIZED SIGNATURE AND DATE BELOW:

\_\_\_\_\_  
Signature and title of authorized person

\_\_\_\_\_  
Date

Approved  Approved as Amended  Disapproved

\_\_\_\_\_  
Signature of Contracting Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

# ***Price Increases***

- **Authority:**

- **Economic Price Adjustment Clause (EPA)**
  - 552.216-70 FSS Multiple Award Schedule Contracts (SEP) 1999) Alternate I (SEP 1999) (Local Deviation)

# ***Price Increases***

- Allows price increases in accordance with commercial practices
  - Contractor Requirements
    - Copy of previous and current commercial pricelist which shows increase and effective date
    - Reason for the price increase
    - CSP or Certification that no adverse change has occurred to the established tracking ratio since the award of the line item

# ***Price Increases***

- Price increases can be accepted under the (EPA) clause when all conditions below are met:
  - Increase in commercial list price
  - Increase in Tracking customer price
  - Requested before the last 60 days of the contract
  - 30 days between increases
  - Established tracking customer ratio is not disturbed



# ***Price Increases***

## ■ Government Options:

- Accept the proposal when all conditions above are met (Fair and reasonable determination)

-OR-

- Negotiate more favorable discounts

-OR-

- Remove the products from the contract

# Price Increase – Modification

(Refer to Attachment 2)

**PRICE INCREASES:** (See Economic Price Adjustment clause in your contract.)

**NOTE: The contract modification reflecting the price adjustment shall be and made effective upon signature of the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to the delivery orders issued to the Contractor on or after the effective date of the contract modification.**

Special Item Number (SIN) \_\_\_\_\_.

- A) The following information must be provided for each item being proposed for an increased price to support the reasonableness of the price change: (See attached spreadsheet, page 6)
- 1) Item (include description)
  - 2) Current FSS pricing
  - 3) Proposed Net FSS pricing
  - 4) Percentage change from current FSS to proposed Net FSS pricing
  - 5) Previous tracking customer price
  - 6) Current tracking customer price
  - 7) Percentage change from previous tracking customer price to current tracking customer price
- 8) Previous commercial pricing
- 9) Current commercial pricing **NOTE: The tracking customer's price must be disclosed with your request for increase. The awarded tracking customer and the established ratio at the time of award will affect your ability to receive an increase.**
- 10) Percentage change from previous commercial to current commercial pricing

**NOTE: The tracking customer's price must be disclosed with your request for increase. The awarded tracking customer and the established ratio at the time of award will affect your ability to receive an increase.**

B) Provide a preprinted **dated, commercial price list** for the proposed items.

**If a preprinted Commercial Price List is not available, provide a dated, internal pricing document(s) that clearly identify the commercial list price of the items proposed; verify that pricing provided is true and correct; date and sign the internal pricing document.**

C) Documentation supporting the reasonableness of the price increase on company letterhead.

# Price Increase - Modification

D) I hereby certify the following in regards to contract Number V797P-\_\_\_\_\_ (insert contract number):

- a) The customer(s)/category(ies) of customer(s) identifies as the predicated customer/basis of award still exist(s) as a customer(s) of our company.
- b) The discount and/or net price ratio between the Government and the predicated/basis of award customer is equal to or better than the discount and/or net price ratio which was last disclosed and agreed upon; and,
- c) No customer(s)/category(ies) of customer is/are receiving discounts better than the discounts given to the Government under this contract, other than those customer/category(ies) of customer previously disclosed and accepted by the contracting officer as receiving better discounts than the Government.

\_\_\_\_\_ I verify to the statements above.

\_\_\_\_\_ I do not verify to the statements above.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

**NOTE:** Reference Clause 552.216-70 Economic Price Adjustment – FSS Multiple Award Schedule Contracts (Sept 1999) – Alt I (Sept 1999)(Local Deviation)(c)(2)(3): If you have selected “*I do not certify to the statements above*” please submit updated CSP information as referenced below:

# Price Increase and/or Price Decrease Format

## PRICE INCREASE AND/OR PRICE DECREASE

Please check appropriate modification type:

- ( ) **Price Increase** pursuant to Clause 552.216-70 Economic Price Adjustment – FSS Multiple Award Schedule Contracts (Sept 1999) Alt I (Sept 1999) (Local Deviation), Clause 552.243-72 Modifications (Multiple Award Schedule) (Jul 2000) Alt I (Sept 1999) (Complete columns A thru P)
- ( ) **Price Reduction** pursuant to Clause 552.238-75 Price Reductions (May 2004), Clause 552.243-72 Modifications (Multiple Award Schedule) (Jul 2000) Alt I (Sept 1999) Clause 552.216-70 Economic Price Adjustment – FSS Multiple Award Schedule Contracts (Sept 1999) Alt I (Sept 1999) (Local Deviation): (Complete columns A thru G, I & J, L through Q) ( ) **Permanent** ( ) **Temporary (Time Frame \_\_\_\_\_)**

| A                | B           | C            | D        | E               | F                 | G                      | H            | I                                | J                               | K                          |
|------------------|-------------|--------------|----------|-----------------|-------------------|------------------------|--------------|----------------------------------|---------------------------------|----------------------------|
| Special Item No. | Product No. | Product Name | Quantity | Unit of Measure | Current FSS Price | Proposed NET FSS Price | % FSS Change | Previous Tracking Customer Price | Current Tracking Customer Price | % Tracking Customer Change |
|                  |             |              |          |                 |                   |                        |              |                                  |                                 |                            |

**\*Note:** \*\*Columns H, K, and N should be calculated in relationship from the current/previous price to the proposed/new price.

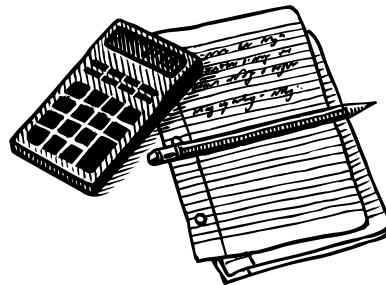
| L                    | M                   | N              | O  | P  | Q                                   |
|----------------------|---------------------|----------------|--|--|-------------------------------------|
| Previous Comm. Price | Current Comm. Price | % Comm. Change | FSS Contract modification # that added product | Effective date of FSS contract modification that added product | Awarded FSS tracking customer ratio |
|                      |                     |                |  |  |                                     |

**NOTE:** If there are multiple line items, please submit all items on an excel spreadsheet, however you must submit Pg-9 of the Request for Modification Form.

# ***Modifications***

## **SAMPLE Price Reduction / Price Increase WORKSHEET**

*(Refer to Attachment 3)*



# ***Price Reductions & Increases Summary***

- Understand how the established tracking customer ratio is established
- Develop a system to track the discounts extended to the tracking customer to ensure compliance with PRC
- Recognize when Price Reduction clause triggers
- Recognize discounts which will not trigger the PRC
- Permanent/Temporary
- May be voluntary to Government only

# ***Contract Performance & Deliverables***

- Timely submission of the following deliverables:
  - FSS Pricelists/Supplemental Pricelists
  - Contractor Report of Quarterly Sales & Industrial Funding Fee's
  - Subcontracting Plan (when applicable)

# ***FSS PRICE LIST***

*(Refer to Attachments 1 & 6)*

- 552.238-71-Submission and Distribution of Authorized FSS Schedule Pricelist
- I-FSS-600 -Contract Price Lists



# ***FSS Price List Distribution Requirements***

- Printed Paper Pricelist
  - Suggested format for the supplemental and cumulative pricelists can be found in Clause I-FSS-600 and Contract Award Letter
  - Submit draft for CO review and approval prior to distribution
  - Mail or email a final pricelist to:
    - FSS Contracting Officer (1 copy)
  - Provide authorized pricelist to FSS customer's upon request.

# ***Quarterly Sales Report & IFF***

- Contractor Report of Sales
  - GSA Form 72
    - Report individually per SIN
      - VA Sales
      - OGA Sales
      - Disaster Recovery Participation

# Quarterly Sales Report & IFF

(Refer to Attachment 4)

## ■ Contractor Report of Sales

**\*\* Zero sales must be reported \*\***

□ Due **No Later Than** 60 days after end of each reporting quarter.

- Quarter 1 (October – December)
- Quarter 2 (January – March)
- Quarter 3 (April – June)
- Quarter 4 (July – September)

DEPARTMENT OF VETERANS AFFAIRS  
C/O FEDERAL SUPPLY SERVICES  
P.O. BOX 76, Bldg 37  
HINES, IL 60141

*Note: Delinquency to submit the GSA Form 72 is considered to be in Default with Contract Terms & Conditions.*

*Future plans: Report of Sales submission on-line*

# ***Industrial Funding Fee***

*(Refer to Attachment 1)*

- **Industrial Funding Fee (IFF) 552.238-74** – The IFF is a fee paid by customers to fund the cost of operating the Schedules program. Contractor must remit **0.25%** or **1%** of the total reported sales with each quarterly sales report depending on the schedule.

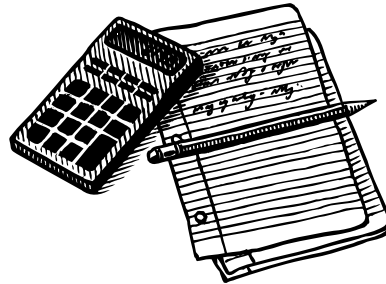
# ***Industrial Funding Fee***

- Calculation of quarterly IFF
  - Document method
  - ACH payment be sure to identify contract #
    - Mandatory by end of year
  - Two methods to calculate IFF
    - Usual application (Total Sales x 0.0025)
    - Back-out method (Total Sales x 0.9975) x 0.0025

# ***Industrial Funding Fee***

## **IFF WORKSHEET**

*(Refer to Attachment 5)*



# Calculation of IFF

## Usual Application

| <b>VA Sales</b> | <b>OGA Sales</b> | <b>Total Sales</b> | <b>IFF Owed (Total Sales x 0.0025)</b> |
|-----------------|------------------|--------------------|--|
| \$0             | \$50             | \$50               | $\$50 \times 0.0025 = \$0.13$          |
| \$50            | \$50             | \$100              | $\$100 \times 0.0025 = \$0.25$         |
| \$225           | \$275            | \$500              | $\$500 \times 0.0025 = \$1.25$         |
| \$448           | \$552            | \$1,000            | $\$1,000 \times 0.01 = \$10.00$        |
| \$10,000        | \$25,000         | \$35,000           | $\$35,000 \times 0.01 = \$350.00$      |

# Calculation of IFF

## Back-Out Method

| <b>VA Sales</b> | <b>OGA Sales</b> | <b>Total Sales</b> | <b>IFF Owed (Total Sales x 0.9975) x 0.0025)</b>          |
|-----------------|------------------|--------------------|---|
| \$0             | \$50             | \$50               | $(\$50 \times 0.9975) \times 0.0025 =$<br><b>\$0.12</b>   |
| \$50            | \$50             | \$100              | $(\$100 \times 0.9975) \times 0.0025 =$<br><b>\$0.25</b>  |
| \$225           | \$275            | \$500              | $(\$500 \times 0.9975) \times 0.0025 =$<br><b>\$1.25</b>  |
| \$448           | \$552            | \$1,000            | $(\$1,000 \times 0.99) \times 0.01 =$<br><b>\$9.90</b>    |
| \$10,000        | \$25,000         | \$35,000           | $(\$35,000 \times 0.99) \times 0.01 =$<br><b>\$346.50</b> |



# ***Contract Performance & Deliverables***

## **Contractor Responsibility**

- Maintain Integrity of Awarded Product and Prices
- Continue to Market Products to individual activities (FedMarts, Trade Shows, etc.)
- Submit timely/Quarterly sales reports and other deliverables e.g. subcontracting plans if applicable, printed pricelist, etc.
- Periodically update published price list based on contract changes (products & prices etc.)

# ***Contract Performance & Deliverables***

## ***Government Customer Responsibility***

- Adhere to the terms and conditions of the contract
- Review 3 or more contractors if purchase exceeds \$3,000 (micro-purchase threshold)
- Attempt to negotiate lower price based on commitment
- Timely Payments (ACH – Mandatory by end of year)
- Request price reduction for large buys over Maximum Order under contract

# ***Contract Performance & Deliverables***

## *How pricing is monitored*

- Contractor may perform self-audits and provide voluntary disclosures.
- Disclosures by Customers and Competitors
- Monitoring – sales reports and contracts are reviewed for trends and contractor compliance.
- Post Award Reviews – If deemed necessary

# ***Contract Performance & Deliverables***

## ■ **Post Award Audit Provision:**

- Authority - AS13 Examination of Records Clause
- Review reported sales and contract for contractor compliance with Price Reduction Clause
- Government can initiate up to 2 years after contract award or 2 years after a modification award

# ***Contract Performance & Deliverables***

## ■ **Termination for Convenience or Cause –**

1. Convenience – Ordering activities reserve the right to cancel purchase/delivery orders placed against an FSS contract in whole or in part for their sole convenience.
2. Cause – Ordering activities may terminate purchase/delivery orders placed against an FSS contract in whole or in part for cause in the event of any default by the contractor.

- ## ■ **Cancellation** – either party (Government Contract Officer or Contractor) may cancel the FSS contract in whole or in part by providing a written notice. The cancellation will take effect 30 calendar days after receipt of notification.

## *Subcontracting Plan (FAR 19.702)*

- Required when:
  - Large business with 500 employees
  - Estimated contract or modification value  $\geq$  \$550,000 (\$1 million for construction)

# *Subcontracting Plan*

- Plan is based on vendor fiscal year

## Recent Major Changes:

- Achievement reports are due 30 days after the end of the vendor's fiscal year.

# *Subcontracting Plan*

More Information:

View online Training Webinar  
by contacting

Veronica Hazen  
[veronica.hazen@va.gov](mailto:veronica.hazen@va.gov)

or

708-786-5145



# Summary Subcontracting Achievement Report

- Annually input subcontracting summary achievement report data - **Electronic Subcontracting Reporting System (eSRS)**

- <http://www.esrs.gov/>

**eSRS** Integrated Acquisition Environment  
Electronic Subcontracting Reporting System

Log-In or Register Now:  
GOVERNMENT CONTRACTORS

About eSRS | FAQs

**eSRS - FPDS Real Time Interface**  
On June 1, 2007 the Electronic Subcontracting Reporting System (eSRS) implemented a real time contract retrieval interface with the Federal Procurement Data System (FPDS). The interface permits contractors to enter their contract number into eSRS and have the data retrieved from FPDS and immediately made available for reporting in the eSRS.

**FFATA Announcement:**  
The Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109-282) requires the existence and operation of a searchable website that provides public access to information about Federal expenditures. The FFATA specifically requires that a pilot program be established to test the collection and accession of subcontract award data. The eSRS will be utilized as the IT system to collect the subcontracting data for the pilot program.  
The pilot program implementation is scheduled for July 2007.  
To find out more information about the FFATA and/or provide comments please log onto [federalspending.gov](http://federalspending.gov) or to review the proposed rule [click here](#).

**Documents**  
» [eSRS Government Training](#)  
» [eSRS Contractor Training](#)  
» [eSRS Contractor Guide](#)  
» [eSRS Agency Coordinator Guide](#)  
» [eSRS CO Guide](#)  
» [eSRS POC Guide](#)  
» [eSRS DGU Guide](#)  
» [Sample ISR](#)  
» [Sample SSR](#)  
» [Sample Commercial SSR](#)  
» [Frequently Asked Questions](#)

**News**  
**Training Announcement:**  
Training for contractors will be provided by SBA's Commercial Market Representatives (CMRs). Training for Government employees will be provided by Agency Coordinators. Please contact your CMR or Agency Coordinator for additional information.

**Contractor User Training**  
» [View Powerpoint Presentation](#)

**Government User Training**  
» [View Powerpoint Presentation](#)

Online Training

# ***e-SRS Training / Assistance***

- SBA Commercial Market Representatives  
Website: <http://www.sba.gov/GC/cmr.html>
- e-SRS Contractor User Training  
Powerpoint Presentation  
Website: <http://www.esrs.gov>
- Help Desk for technical questions  
E-mail address: [Help@esrs.gov](mailto:Help@esrs.gov)
- SBA for questions regarding subcontracting policy

# Assistance

## Supply Contracts

708-786-7737

[Helpdesk.ammhinfss@va.gov](mailto:Helpdesk.ammhinfss@va.gov)

## Services Contracts

708-786-7722

[Helpdesk.FSS621I@va.gov](mailto:Helpdesk.FSS621I@va.gov)

# Director and Assistant Directors

## **Carole O'Brien**

Director, Federal Supply Schedule Service

(708) 786-4957

## **Paul Skalman**

Assistant Director, Medical Equipment and Supplies

(708) 786-5247

## **Cheryl Ward-Roberts**

Assistant Director, Pharmaceutical, Dental and Other

(708) 786-5259

## **Dore Fessler**

Assistant Director, Medical Services

(708) 786-5223

# Schedule Managers

## **Monee Robinson**

Schedule Manager

65IIA -Medical Equipment and Supplies

(708) 786-5183

## **Lynda O'Neill**

Schedule Manager

65 IIC - Dental Equipment and Supplies

65IIF - Patient Mobility Devices

65 VA - X-Ray Equipment and Supplies

## **Bob Satterfield**

Schedule Manager

65 IB - Pharmaceuticals

65 VII - Diagnostics, Reagents, Test Kits and Sets

(708) 786-4955

# Schedule Managers

## **Darlene McGary**

Schedule Manager

621 II – Medical Laboratory Testing and Analysis

66 III – Cost-Per-Test, Clinical Laboratory Analyzers

(708) 786-5246

## **Linda Smith**

Schedule Manager

621 I – Professional and Allied Healthcare Staffing

Teleradiology Initiative

(708) 786-5194



# *QUESTIONS / OPEN DISCUSSION*

# Warranty And Liability Term Negotiations In Commercial Item Procurements



Melbourne A. Noel, Jr.  
VA Office of General Counsel  
National Acquisition Center



# I. Warranty Term Negotiations

- Many parts of the Commercial Item format clauses prescribed by the FAR at 52.212-1 and 52.212-4 may be tailored to adapt them to the market conditions for each acquisition.
- If the tailoring is not consistent with customary commercial practice, the contracting officer (CO) must obtain a waiver in accordance with agency procedures. Unfortunately, “customary commercial practice” is not a term defined in the FAR.

# Warranty Term Negotiations

- FAR 12.404 sets forth the CO's obligations with regard to warranty terms in a commercial item contract. 12.404(b) tells COs to take advantage of commercial warranties and, to the maximum extent practicable, issue solicitations for commercial items that require offerors to provide the Government at least the same warranty terms as offered to the general public in customary commercial practice.
- It also states that any express warranty the Government intends to rely upon must meet the needs of the Government.

# Warranty Term Negotiations

- When we speak of warranties, we are talking generally about assertions or promises made by a manufacturer or supplier regarding the quality or attributes of the product being sold to the Government.
- The Uniform Commercial Code (or UCC), which is not directly applicable to the Federal Government, seems to have been the inspiration for the drafters of Part 12 when they wrote 52.212-4, paragraph (o).

# Warranty Term Negotiations

- The FAR and the UCC both recognize two basic categories of warranties – “Express” warranties and “Implied” warranties. Express warranties are found in the actual terms stated in a negotiated contract, and they usually involve some affirmation or promise of quality or description of the goods.

# Warranty Term Negotiations

- On the other hand, implied warranties arise by law from given factual situations without any need to be stated. The two implied warranties recognized in the UCC and borrowed by FAR 12.404(a) are the Implied warranty of Merchantability and the Implied warranty of Fitness For A Particular Purpose.

# Warranty Term Negotiations

- You will notice that the Implied Warranty of Merchantability is defined as providing that an item is reasonably fit for the ordinary purposes for which such items are used. The item must be of at least average, fair or medium grade quality and must be comparable in quality to those items that will pass without objection in the trade or market for items of the same description.

# Warranty Term Negotiations

- In contrast, the Implied Warranty of Fitness For A Particular Purpose provides that an item is fit for use for the particular or peculiar purpose for which the Government will use the item.
- The Government can rely on an Implied Warranty of Fitness For Purpose only when, first, the seller knew the particular purpose for which the Government intended to use the item and, second, the Government relied upon the contractor's skill and judgment that the item would be appropriate for that particular purpose.

# Warranty Term Negotiations

- In the vast majority of instances, when the Government buys a commercial item, the Government has decided on its own which item is appropriate for a particular use. In those cases, the Government would not be relying on the contractor's judgment in choosing the item and, therefore, would not be able to rely on any Implied Warranty of Fitness For Purpose.



# Warranty Term Negotiations

- The FAR Council has taken these two so-called implied warranties and placed them both in paragraph (o) of Clause 52.212-4, so that, in reality in Government contracts now, they have become expressed warranties, unless tailored out.

# Commercial Item Warranty Paragraph - FAR 52.212-4

- “(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.”

# Warranty Term Negotiations

- The FAR at 12.404(b)(2) recognizes that sellers often seek to exclude or disclaim both of the warranties contained in paragraph "o". Sellers frequently do this through their own clauses which are entitled, "Limited Express Warranties", and which state minimal obligations on the seller to repair or replace goods that are defective, at their option, of course.

# Warranty Term Negotiations

- The so-called limited warranty also usually contains a statement printed in all caps that all other warranties, express and implied, are hereby disclaimed. The FAR says that, if this limited warranty is found by the CO to be “customary commercial practice” for sellers in the relevant market, then the CO may accept exclusion of both of the paragraph (o) warranties.

# Warranty Term Negotiations

- This can be done as long as the CO ensures that the express warranty provides for the repair or replacement of the defective items discovered within a reasonable period of time after acceptance.
- Left unanswered, unfortunately, is the question of what will justify a CO's refusal to allow a vendor to exclude paragraph (o)'s warranties.

# Warranty Term Negotiations

- The General Services Administration conducted a survey of Fortune 500 companies in 1996. It found that regardless of what these companies attempted to foist upon their own customers, when the Fortune 500 acted as buyers, they wanted heavy protection in warranty terms. GSA's 1996 book entitled "Anthology of Commercial Terms and Conditions" (superseded by a later edition) contains a collection of strong, big-buyer warranty and indemnification clauses which are used by purchasing agents in those huge corporations.

# Warranty Term Negotiations

- GSA's recommendation to COs in the original version of this book is at page 5: "The FAR implementation of FASA does not reduce the Government to the position of a small retail buyer. Federal Government purchasing is big business and we must purchase with the power and authority of big business.

# Warranty Term Negotiations

- To assist COs in their efforts to figure out whether to tailor paragraph (o), we have put together a list of seven steps that we recommend be followed before warranty and liability terms are agreed to in a final contract for procurement of commercial items. The list is attached.



# Warranty Term Negotiations

- Let's look at two examples of warranty and liability clauses which may be helpful as beginning reference points. The first one is a pro-buyer example which is taken from the GSA Anthology Of Terms And Conditions. It represents a maximum buyer's position.

# Pro-Buyer Example

- Warranty and Indemnity.
- Seller expressly warrants that all goods, material and workmanship will conform with applicable drawings, specifications, samples, or other descriptions given, will be fit for the purpose intended, and will be free from defects. All goods delivered and services performed will be subject to test and inspection by Buyer at the place of manufacture or at destination or at both.

# Pro-Buyer Example (Continued)

Any of the goods found at any time to be damaged (including goods damaged due to unsatisfactory packaging by Seller) or defective in material or workmanship or not in conformity with this purchase order may be corrected by Buyer at Seller's expense or rejected and returned at Seller's expense. If Buyer elects to return such goods to Seller at any time, Buyer shall be entitled to credit or replacement goods or services at the price charged.

# Pro-Buyer Example (Continued)

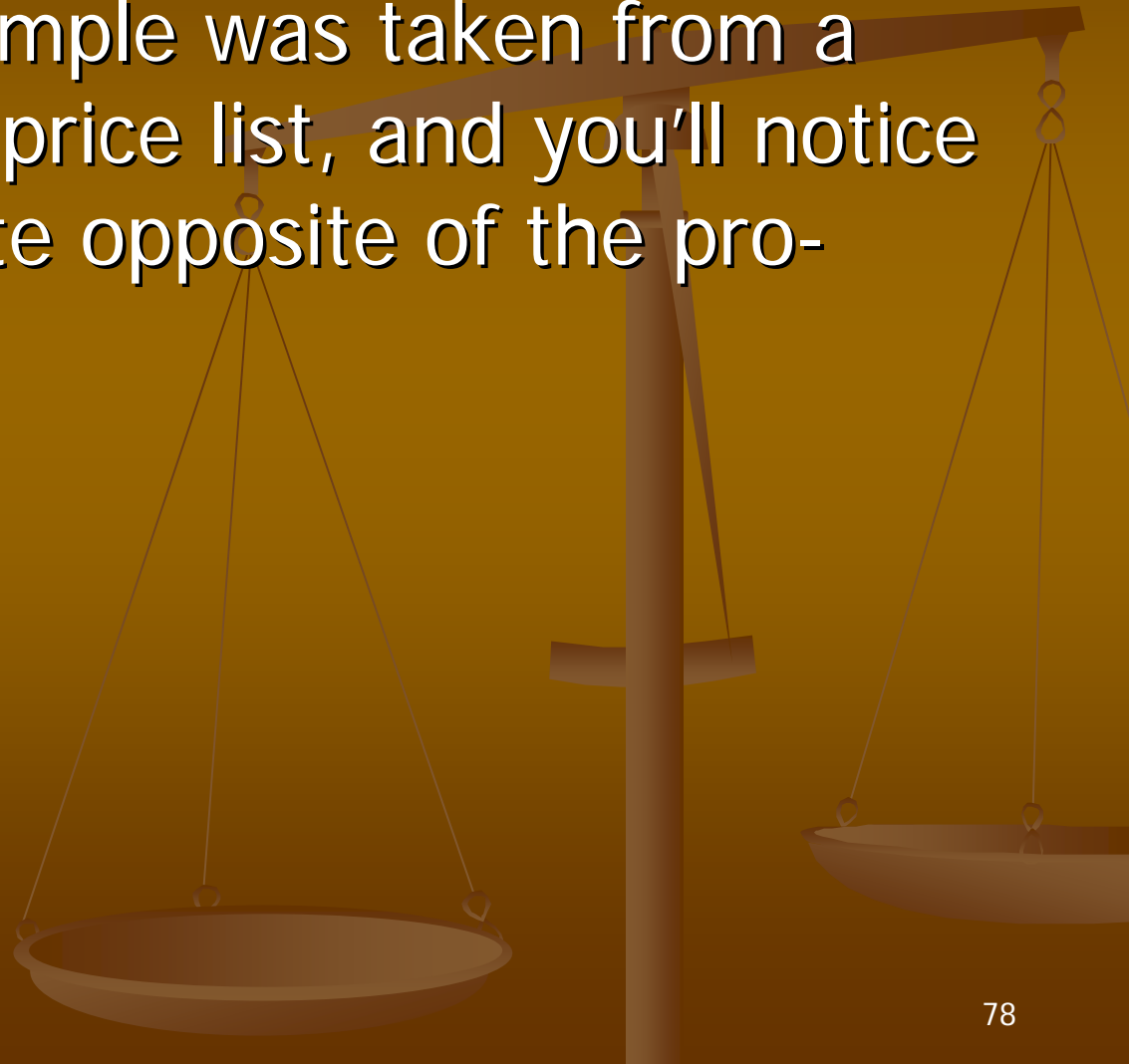
However, Buyer's inspection or failure to inspect shall in no way relieve Seller of responsibility hereunder, and Seller will in all cases indemnify and hold buyer harmless against any and all claims, liabilities, costs, damages or expenses (including attorneys' fees) of any kind caused by Seller's breach of the foregoing warranty, including but not limited to all costs and expenses related to product recall.

# Pro-Buyer Example (Continued)

The foregoing shall not be in limitation of any rights that Buyer may have at law or in equity by reason of any breach of warranty, express or implied. Seller shall maintain product liability insurance in such amounts as is customary for its type of business, and upon requested by Buyer, Seller will provide Buyer with a certificate of such insurance.

# Warranty Term Negotiations

- The second example was taken from a pharmaceutical price list, and you'll notice it is the complete opposite of the pro-buyer example.



# Warranty Term Negotiations

- It disclaims any and all other warranties, express or implied, including specifically the warranty of Merchantability and warranty of Fitness For Purpose. The next paragraph on Limitation Of Liability in this pro-seller example states that the seller shall not be liable for and the customer assumes responsibility and agrees to indemnify the seller for all personal injury, property damage, incidental or consequential damages resulting from the handling, possession, use or resale of any goods under this contract.

# Unacceptable Example

- Warranties: Seller Warrants title and that all goods sold hereunder shall conform to standard specification in effect on the date of shipment. Seller also warrants that the goods sold hereunder (i) are not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act; and (ii) this warranty is limited to goods bearing label in original package.



# Unacceptable Example (Continued)

THESE WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES WITH RESPECT TO THE GOODS, EXPRESS OR IMPLIED, ARISING BY LAW OR CUSTOM, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE, WHETHER USED ALONE OR IN COMBINATION WITH OTHER SUBSTANCES.

# Unacceptable Example (Continued)

- **LIMITATION OF LIABILITY:** All claims by Customer or others for alleged damage, defects, shortage, non-delivery, negligence or any other cause, whether or not enumerated (“defective performance”) shall be deemed waived unless made in writing and received by Seller within thirty (30) days after Customer’s receipt of the goods.

# Unacceptable Example (Continued)

Seller shall not be liable for, and customer assumes responsibility and agrees to indemnify Seller for, all personal injury, property damage, incidental or consequential damages, or noncompliance with foreign regulations, resulting from the handling, possession, use or resale of any goods, whether used alone or in combination with other goods.

# Unacceptable Example (Continued)

CUSTOMER'S EXCLUSIVE REMEDY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL BE FOR MONEY DAMAGES WHICH SHALL NOT EXCEED THE PRICE OF THE GOODS IN RESPECT TO WHICH THE CLAIM IS MADE, or at the election of Seller, the repair or replacement of such goods at no additional charge to the Customer.

## II. Liability Term Negotiations

- Both the second paragraph of the unacceptable form warranty example and paragraph (p) of 52.212-4 represent the other side of the coin from warranties. They deal with the question of what happens when a product fails and there are damages which result. The breach of warranty damages that may occur due to product failure include direct damage, that is loss of value of the product itself. The total damages may also include what are known as consequential damages. These include damages that arise as the proximate result of the product's failure to people or property nearby.

# Commercial Item Liability Paragraph - FAR 52.212-4

- “(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.”

# Liability Term Negotiations

- Unlike the approach taken by the FAR Council in paragraph (o), their final version of paragraph (p) has no guidance in the FAR as to its tailoring and concedes up front all the Government's rights to obtain consequential damages as the result of the failure of a product.

# Liability Term Negotiations

- When we made an inquiry of the Department of Justice (DOJ) on the scope and advisability of this paragraph's waiver of Government rights to consequential damages, they told us that they felt such a broad waiver was inadvisable and that the Government should keep open the possibility that it might be able to sue a manufacturer for negligence or gross negligence if the failure of a product causes severe damages and the failure is more than merely an unforeseen accident.



# Liability Term Negotiations

- Consequently, we are recommending to our COs that, if they leave paragraph (p) in their solicitations at all, they at least tailor it to say: “... the contractor will not be liable to the Government in a breach of warranty action for consequential damages resulting from any defect ...”

# Tailored Limitation Of Liability Paragraph – FAR 52.212-4(p)

- “(p) Limitation of liability. (Tailored). Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government ***in a breach of warranty action*** for consequential damages resulting from any defect or deficiencies in accepted items.”

# Warranty and Liability Term Negotiations

- Steps for Deciding What Commercial Item Warranty/Liability Clauses Are Minimally Acceptable To The Government And What Protection Is Desirable As A Negotiation Goal:
  - 1) Consult product's users (customers) to learn likely impact of product failure on people, mission, and budget.

# Warranty and Liability Term Negotiations

- 2) Ask customers to determine their required minimum protection against consequences of product failure, using FAR 12.404(b).
- 3) From market research, determine what protection big commercial buyers get from sellers in this industry and what, if any additional procurement cost is attributable to better warranty protection.

# Relevant (But Not Binding) FAR Guidance on Attributes of Effective Warranties

- FAR 46.702 General.
- (a) The principal purposes of a warranty in a Government contract are –
  - (1) To delineate the rights and obligations of the contractor and the Government for defective items and services and
  - (2) To foster quality performance.

# Relevant (But Not Binding) FAR Guidance on Attributes of Effective Warranties

- 46.702 General. (continued)
- (b) Generally, a warranty should provide—
  - (1) A contractual right for the correction of defects notwithstanding any other requirement of the contract pertaining to acceptance of the supplies or services by the Government; and
  - (2) A stated period of time or use, or the occurrence of a specified event, after acceptance by the Government to assert a contractual right for the correction of defects.
- (c) The benefits to be derived from a warranty must be commensurate with the cost of the warranty to the Government.

# Warranty and Liability Term Negotiations

- 4) Decide whether FAR 52.212-4 standard warranty/liability paragraphs, in conjunction with paragraph a) Inspection/Acceptance, meet customers' protection requirements. If not, tailor a more pro-buyer version and document the file. (Almost always tailor liability paragraph (p) to the DOJ version described in the foregoing paper.)

# Warranty and Liability Term Negotiations

- 5) If Government-tailored versions of paragraphs (o) and (p) are not consistent with industry's commercial practice in sales to large buyers, get waiver "in accordance with agency procedures."



# Warranty and Liability Term Negotiations

- 6) After solicitation closes, carefully read offerors' submitted warranty/liability provisions and resolve differences between them and Solicitation clauses during negotiation and in the award document.

# Warranty and Liability Term Negotiations

- 7) In all but simple, paperclip-type procurements, resist pressure to accept seller's lowest-common-denominator commercial limitations on the warranty and on seller's liability.

# Some Questions Asked by VA COs

- QUESTION: Commercial Warranties: Does this pertain exclusively to equipment and supply buys?
- ANSWER: No, but primarily. UCC Article 2 with its warranty sections is limited to contracts for the sale of goods, i.e., movable things. However, FAR Part 12 that includes warranty provisions has a broad definition of “commercial items” that includes some commercial services such as equipment maintenance.

# Some Questions Asked by VA COs

- QUESTION: Can we negotiate all warranty terms?
- ANSWER: Yes.
- QUESTION: Should VA incorporate the OEM's limited warranty as written?
- ANSWER: Not usually. In the case of all but the simplest equipment or supplies, it will most likely have unacceptable limitations on the seller's responsibility and liability.

# Some Questions Asked by VA COs

- QUESTION: What are “incidental damages” and can we allow contractors to exclude themselves from liability for such damages?
- ANSWER: Yes. See UCC Section 2-715. (But don’t exclude them from liability for all consequential damages, which are defined differently.)

# Some Questions Asked by VA COs

- QUESTION: In a sole source procurement, can we eliminate the contractor's Implied Warranty Of Fitness for a Particular Purpose and the Implied Warranty of Merchantability? What if that is the commercial practice and the contractor will not budge?
- ANSWER: In exercising good business judgment, you could decide to eliminate both warranties. Fitness will often be the easiest to give up. Why give up merchantability?



# Novations and Name Changes

Barbara Stuetzer  
And  
Maura Brown

# Difference between Name Change and Novations

- Name change is only appropriate when the legal entity remains the same e.g. corporate name was ABC they filed an amendment to the corporate charter and the new name is XYZ.



# Novation Agreement



- A novation agreement is required when a third party (the successor in interest) acquires its interest in a government contract out of the transfer of
  1. all the contractor's assets; or
  2. The entire portion of the assets involved in performing the contract

# Examples of transactions requiring novations



- Sale of assets with a provision for assuming liabilities
- Transfer of assets incident to a merger or corporate consolidation and
- Incorporation of a proprietorship or partnership or formation of a partnership

# A novation is not necessary when



- A change of ownership occurs as the result of a stock purchase, with no legal change in the contracting party, and when the contracting party remains in control of the assets and is performing the contract. FAR 42.1204(b)
- FAR states that any issues in this case can be addressed in a formal agreement between the contractor and government.

# How Many and to Whom



- Generally contractors only have to execute one novation agreement for all Government Contracts
- If there are several contracts the package should be submitted to the CO with the largest unsettled dollar balance to process the novation or name change

# Processing

- The contractor must submit a written request to recognize a successor in interest or name change
- Special procedures apply to Javits-Wagner-O'Day Act see FAR 8.716



# Processing



- The contractor should submit the information in 42.2104 e and f for a novation
- If one novation is submitted the CO will notify each contract office affected by a proposed agreement and provide with the novation and a list of affected contracts and
- Request comments within 30 days after notification

# When CO receives the information



- Determine whether or not it is in the Government's best interest to recognize the successor based on:
- Comments received
- Proposed successor's responsibility under FAR 9.1
- Any other factor that the Government believes could impair the successor's ability to perform



Any separate agreement between the transferor and transferee regarding assumption of liabilities should be specifically referenced in the novation agreement.





Pursuant to FAR 42.1203(f)  
all novations and name  
change agreements must  
be reviewed for legal  
sufficiency.

# What does a contractor have to submit?

- 3 signed copies of the proposed novation



# FAR 42.1204(e) required information



- Document describing the proposed transaction
- List of affected contracts between contractor and the Government this should include the name and address of the contracting office, total dollar value and unpaid balance
- Evidence of transferee's capability to perform

# 42.1204(f) 1-4 information



- Authenticated copy of the instrument effecting the transfer of assets
- Certified copy of corporate resolution authorizing the transfer of assets
- Certified copy of minutes of stockholder meeting necessary to approve transfer of assets
- If a corporation was formed to receive assets an authenticated copy of the transferee's certificate and articles of incorporation

# FAR 42.1204(f) 5 and 6



- The opinion of legal counsel for transferor and transferee stating that the transfer was properly effected under applicable law and the date of the transfer
- Balance sheets of transferor and transferee as of dates immediately before and after the transfer of assets, audited by independent accountants.

# Novation Agreement Form



- We strongly encourage companies to utilize FAR language. If there is a reason to change this to fit a specific case we suggest that you have the company call and discuss this with our office.
- Companies often omit (b)(8) which requires that the transferor continues to guarantee performance and payment of all assumed obligations and any future modifications to the contract.
- We will not accept any agreements which omit (b)(8).

# What does the Government do with the novation once executed?



- Prepare a SF 30 modifying the contract which incorporates the agreement and attaches a complete list of contracts affected.
- Forward a signed copy of the novation and modification to the transferor and to the transferee
- Retain a signed copy of both in the CO's file
- Send a signed copy of the SF30 with attached list to each CO affected by the change.

# What if the Government does not execute a novation?

- If the Government determines that it is not in its best interest to recognize a novation agreement the original contractor remains under contractual obligation and the contract may be terminated for default, should the original contractor not perform.



# Small Business issues



- The SBA rules have changed requiring that small businesses recertify their size on novated contracts within 30 days of the corporate structure change. 13 CFR 121

# Name Change Agreement FAR 42.1205



- The contractor must give 3 copies of the change of name agreement and 1 copy of
- The document effecting the name change authenticated by the State official
- Legal opinion that the name change was proper and the date of the change

# Documents to be submitted



- A list of all affected contracts and purchase orders remaining unsettled. The list must show
  - Contract number and type
  - Name and address of the CO
  - The Government may request the total dollar value and/or remaining unpaid balance for each contract

# Name Change Format

- FAR 42.1205(b) contains the suggested format
- Rarely do you need to amend this format.





# Defense Logistics Agency Defense Supply Center Philadelphia Medical Supply Chain

## *Distribution and Pricing Agreement (DAPA) Overview*



Defense Supply Center Philadelphia  
Medical Supplier Operations Directorate - FSEB  
Mr. Louis Jennings, Contracting Officer  
September 19, 2007



# *DAPA Overview Agenda*

- **DSCP/Medical Mission / Vision**
- **DAPA Definition / Purpose**
- **Prime Vendor Program**
- **VA/FSS Relationship**
- **Standardization**
- **Website**
- **Application Process**
- **Points of Contact**
- **Questions**



# DSCP Medical Our Mission

Provide Medical Materiel Support to the Department of Defense  
*Every Day and in Every Crisis*



*Vision: To provide an integrated and responsive system of choice for providing consistent quality medical materiel support for health care providers to perform their patient care mission.*



## DAPA Definition / Purpose

- **Distribution and Pricing Agreement (DAPA)** is a vendor's *agreement* with DSCP to distribute their products through DSCP's Prime Vendor Program at a *specified price*
- Vendors must establish a commercial agreement with DSCP's 'Prime Vendors' (distributors)
- Program customers consist of:
  - Global Military Medical Treatment Facilities (MTFs)
  - Other Participating Federal Government Agencies
- DAPA Holders are not guaranteed sales





## DAPA Definition / Purpose

- **Establish Price Reasonableness**
  - **Via: FSS Pricing**  
**DAPA Pricing**
- **Secure Vendor Authorization and Consent**
- **Facilitate Charge-back Arrangements**
- **Promote Accountability of Product and Pricing Data**
- **Not an Ordering Instrument**



## DAPA Definition / Purpose

### *Why do we use them?*

- **Provide for Rapid Expansion of Program Coverage**
- **Provide Customer Choice and On-Going Competition**
- **Flexibility to Accommodate Market / Product Change**
- **Paperless Submission, Data Maintenance and Dissemination**
- **Not Contingent on DoD Cataloging**



# DAPA Management System (DMS) Manufacturer's Electronic Application

The manufacturer's application allows vendors to quickly and easily update DAPA data and pricing for DoD Medical/Surgical, Equipment, and Pharmaceutical items.

Through system intelligence on the server and in the manufacturer's application, data is cleaner and more complete than ever before.

**Company Information**

Company Name: DuPont Pharmaceuticals Co  
Division:   
Street: PO BOX 80705  
LAUREL HORN GS-27  
City: WILMINGTON  
State: DE Zip Code: 19889-0705  
Country: USA  
Authorized Rep: DEBORAH KOVAL  
Email:   
Phone Number: (703) 786-4346  
FAX Number: (703) 786-5256  
CAGE Code: 04430 HIN Code:   
DAPA Number: V797D-9006

DAPA Type:  
 Pharmaceutical  
 General  
 M/S Equipment  
 M/S Prepak

Company Type:  
 Manufacturer  
 Dealer  
 Both

Special Considerations:  
 National Ind. I/Blind  
 NISH (Serving the Disabled)  
 Federal Prison Ind.  
 None of the above

**Item Information (Pharmaceutical) - Item # 1 of 2**

Are you the manufacturer of the item?  Yes  No

Price Certification:  
 Price is equal to F55 price minus 1FF.  
 Price is less than F55 price minus 1FF.  
 Other: NATIONAL CONTRACT PRICE

Manufacturer Name: DuPont Pharmaceuticals Co  
NDC: 00056-0601-68 Mfg Part #: 00056-0601-68  
Drop Ship?  Yes  No

Change Type:  
 New Item  
 Change  
 Delete  
 No Activity

Item Description: CARBIDOPA 25MG/LEVODOPA 100MG TAB.SA

Unit of Sale: 901 TLE Qty in Unit of Sale: 1 Unit of Packaging: 901 TLE Qty in Unit of Packaging: 100 Unit of Measure: EACH

| Item | Unit Price | Effective Date | Expiration Date |
|------|------------|----------------|-----------------|
| ADD  | 26.21      |                |                 |

Page 2 Add Item Copy Item Del Item Prev Item Next Item

DAPA Status: Change DAPA Type: Pharm



# Web Enabled Communication

DAPA's web-communication bulletin board system allows vendors to upload new DAPA modifications, check status of previously submitted DAPAs, and download important files and updates to the DMS Manufacturer's Application software.

DAPA Holder Communications BBS Login - Microsoft Internet Explorer provided by DSCP

File Edit View Favorites Tools Help

Address <http://www.dmmonline.com/commbbs/cmLogin.asp>

**DMMonline**  
Directorate of Medical Materiel

The Warfighter's Medical Logistics Portal

Pharm Med Surg Equipment Readiness Order Products Customer Service Site Log In

**DAPA Holder CommBBS** DAPA Holder Communication BBS Login **Point of Contact**

Please enter the following login information in order to proceed. If you are a **potential** DAPA Holder, please enter a Log Number. If you are an **existing** DAPA Holder, please enter a DAPA/Contract Number.

Log Number

DAPA/Contract Number

POC

PIN

**DAPA Holder Communications BBS**

- Help
- Quick Find
- External Links
- Visiting The DSCP
- Suggestion Box
- Customer Assistance

To search our site, select here.

[Return to DMM Home](#)

Disclaimer Statement Privacy Notice 508 Compliance

DMMonline - Medical Logistics for the 21st Century

**DMMonline**  
Directorate of Medical Materiel

Local intranet



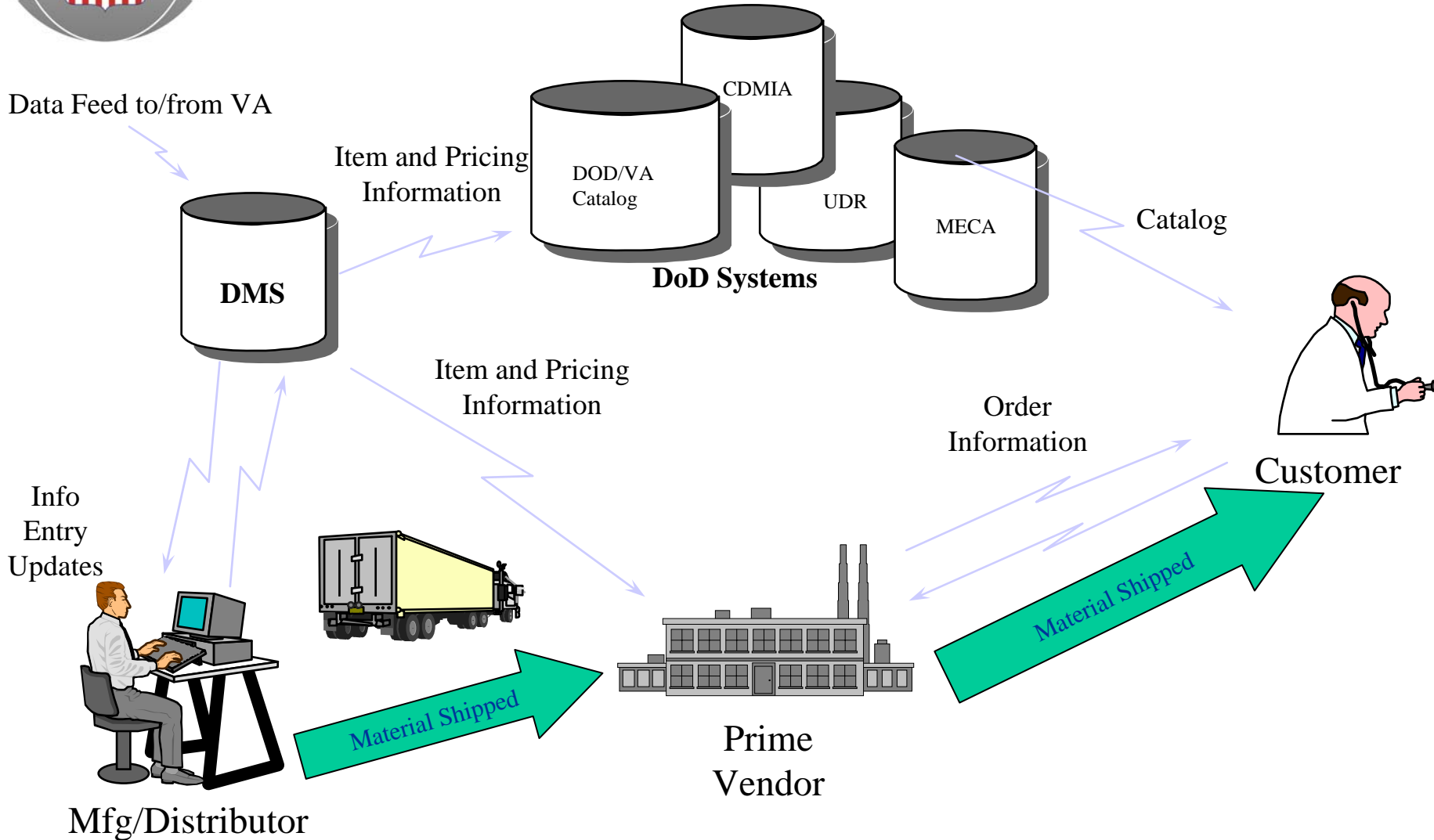
# Prime Vendor Program

## Partner in Peacetime and Contingency





# Prime Vendor Program Flow Chart



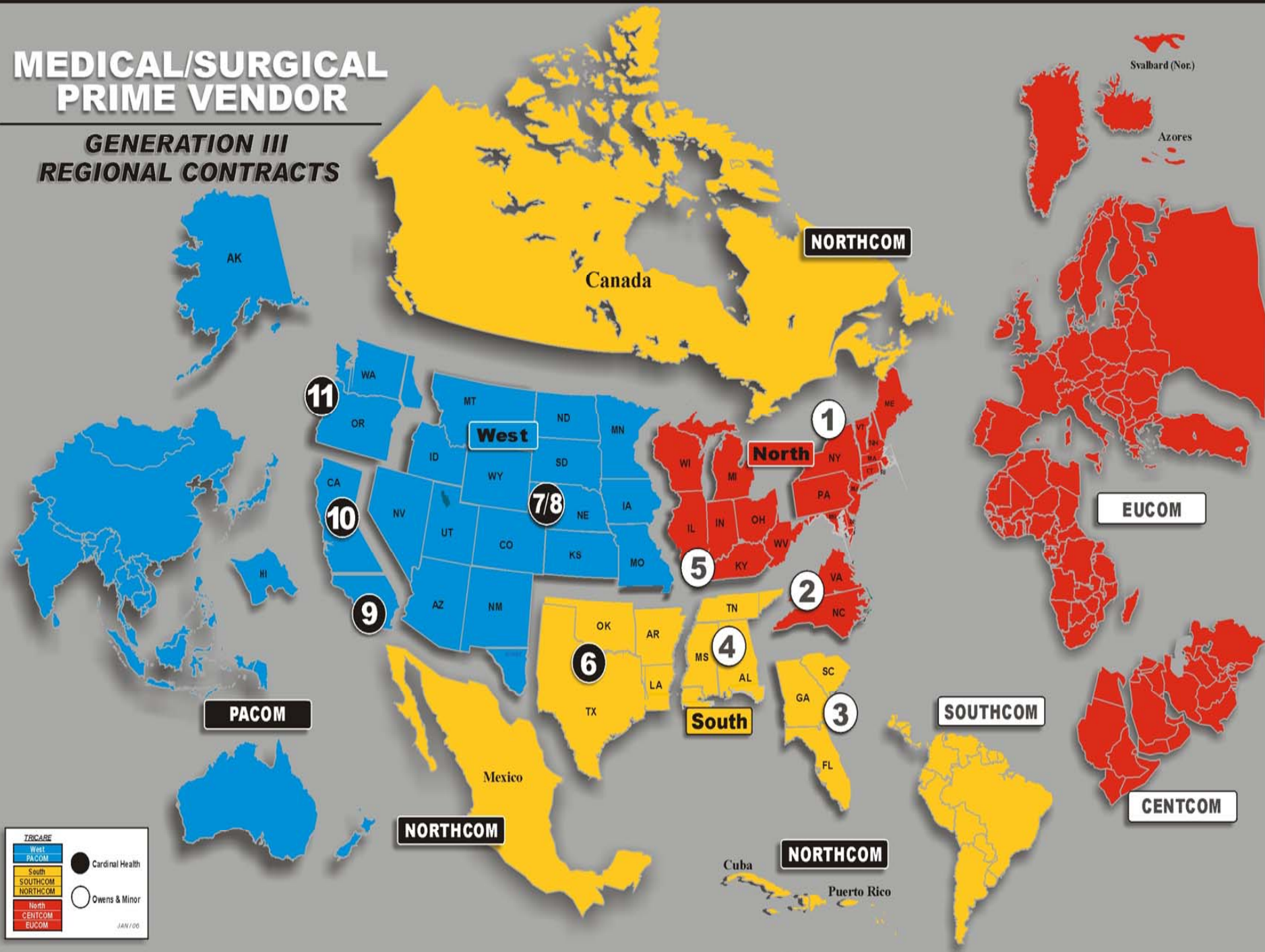


# Medical/Surgical Prime Vendor Program MSPV GEN III Contract Facts

- Two primary and two back-up contracts per Global Region - Awarded July 28, 2005
- Primary Prime Vendors are:  
Cardinal Health and Owens & Minor
- Back-Up PVs are:  
AMD, MMS, Cardinal and O&M
- 5 Yr. Contract (Three 20 Month Periods)
- Projected Sales FY07: \$475 million

# MEDICAL/SURGICAL PRIME VENDOR

## GENERATION III REGIONAL CONTRACTS







# *VA / FSS Relationship*

## *DoD and VA Agreement*

- **As of August 2001 DoD and VA signed a Memorandum of Understanding (MOU)**
- **FSS Pricing will be the preferred method of pricing for items identified on DAPA**
- **Data Management Database updated to accept FSS pricing starting Jan 2002**
- **DAPA pricing still used for items not on FSS**



## VA / FSS Relationship

# Web Enabled Communication

The web-based VA Reviewer's Application allows the VA Contracting Officers to review items on FSS contracts that are also available through the DSCP Prime Vendor Program. These items are simultaneously visible in the DAPA client/server application.

The screenshot displays the VA Reviewer's Application web interface. The main window shows a table of FSS items for review, with columns for Item Identifiers, SIN, Item Description, Packaging Info, FSS Price, and Disapprove. The table lists several items from THE HENDALL COMPANY LP, including 500ML INTERMITTENT GRAVITY SET, TELFA ANTIMICROBIAL DRESSING (A.M.D.) 3" X 4" PAD, and TELFA ANTIMICROBIAL DRESSING (A.M.D.) ISLAND, 4" X 5".

| Item Identifiers  | SIN   | Item Description                                       | Packaging Info   | FSS Price | Disapprove               |
|---|-------|--|--|-----------|--------------------------|
| Mfg: THE HENDALL COMPANY LP<br>MPN: 702625<br><a href="#">Add Record</a>    | A-65  | 500ML INTERMITTENT GRAVITY SET                         | UOS: CASE<br>Qty UOS: 30<br>UOP: EACH<br>Qty UOP: 1<br>UOM: EACH | \$57.29   | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 7662<br><a href="#">Add Record</a>      | A-6   | TELFA ANTIMICROBIAL DRESSING (A.M.D.) 3" X 4" PAD      | UOS: CASE<br>Qty UOS: 18<br>UOP: BOX<br>Qty UOP: 50<br>UOM: EACH | \$140.70  | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 7663<br><a href="#">Add Record</a>      | A-6   | TELFA ANTIMICROBIAL DRESSING (A.M.D.) 3" X 4" PAD      | UOS: CASE<br>Qty UOS: 13<br>UOP: BOX<br>Qty UOP: 50<br>UOM: EACH | \$125.83  | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 7665<br><a href="#">Add Record</a>      | A-6   | TELFA ANTIMICROBIAL DRESSING (A.M.D.) ISLAND, 4" X 5"  | UOS: CASE<br>Qty UOS: 8<br>UOP: BOX<br>Qty UOP: 25<br>UOM: EACH  | \$180.80  | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 7666<br><a href="#">Add Record</a>      | A-6   | TELFA ANTIMICROBIAL DRESSING (A.M.D.) ISLAND, 4" X 6"  | UOS: CASE<br>Qty UOS: 4<br>UOP: BOX<br>Qty UOP: 25<br>UOM: EACH  | \$145.73  | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 7667<br><a href="#">Add Record</a>      | A-6   | TELFA ANTIMICROBIAL DRESSING (A.M.D.) ISLAND, 4" X 10" | UOS: CASE<br>Qty UOS: 4<br>UOP: BOX<br>Qty UOP: 25<br>UOM: EACH  | \$170.85  | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 7669<br><a href="#">Add Record</a>      | A-6   | TELFA ANTIMICROBIAL DRESSING (A.M.D.) ISLAND, 4" X 14" | UOS: CASE<br>Qty UOS: 2<br>UOP: BOX<br>Qty UOP: 25<br>UOM: EACH  | \$95.40   | <input type="checkbox"/> |
| Mfg: THE HENDALL COMPANY LP<br>MPN: 831622015<br><a href="#">Add Record</a> | A-150 | 12CC SYRINGE 20 GAUGE X 1 1/2"                         | UOS: CASE<br>Qty UOS: 4<br>UOP: BOX<br>Qty UOP: 50<br>UOM: EACH  | \$67.21   | <input type="checkbox"/> |



# ***STANDARDIZATION***

## ***Regional Incentive Agreements (RIAs)***

- **Only DAPA Holders are eligible to compete for DoD RIAs**
- **RIA generated by Tricare Region to obtain committed pricing for member facilities**
- **RIA pricing usually lower than FSS and DAPA**
- **Offered items must be on a DAPA to be eligible for standardization/RIA**
- **Standardization Announcements posted on FedBizOpps**
- **RIA pricing incorporated on DAPA**



# Website

- Go to our website: [www.dmmonline.com](http://www.dmmonline.com)
- Click on 'Med/Surg' tab for info on Prime Vendor Program
- Click on topic 'Distribution and Pricing Agreement'
- Must Read: DAPA Terms & Conditions



# **DAPA Application Process**

- **Must first register for access to DAPA software**
- **On DAPA Homepage: Click on 'DAPA Manufacturers Application Home'**
- **DSCP provides you with 'User ID' & instructions for DAPA application**
- **DAPA Manufacturers Application takes you to Site Login**



# *DAPA Points of Contact*

- **DAPA Administrators**

| <b><u>Co. Name*</u></b> | <b><u>Contact Information</u></b>  |
|-------------------------|--|
| Nikki Armstrong         | x7232 <a href="mailto:Nikki.Armstrong@dla.mil">Nikki.Armstrong@dla.mil</a> |
| Larry Bruno             | x5254 Lawrence.Bruno@dla.mil   |
| Lenora Nash             | x7328 Lenora.Nash@dla.mil  |
| Terri Mitchell-Brown    | x4695 Terri.Mitchell-Brown@dla.mil   |
| Suzanne Gallagher       | x3458 Suzanne.Gallagher@dla.mil  |
| Sharon Wilson           | x7238 Sharon.Wilson@dla.mil  |
  
- **DAPA Contracting Officers**

| <b><u>Contact Information</u></b>   |
|---|
| 215-737-2125 <a href="mailto:Louis.Jennings@dla.mil">Louis.Jennings@dla.mil</a> |
| 215-737-8398 Joseph.Wasko@dla.mil   |
  
- **DAPA Program Manager**

| <b><u>Contact Information</u></b>   |
|---|
| 215-737-7124 <a href="mailto:Kim.Nichols@dla.mil">Kim.Nichols@dla.mil</a> |

\* First letter of Company name



*Questions?*



U.S. General Services Administration

# Federal Acquisition Service

## Vendor Support Center



# Responsibilities

## SIP Software 7.x (Primary function)





- ✚ **Data Entry (Company information, Products, Accessories, Options etc..)**
- ✚ **Importing (xls, DBF)**
- ✚ **Photos (70Kb in .jpg or .gif format)**
- ✚ **Text Files (HTML, HTM, doc, xls, PDF) or entering in a URL**
- ✚ **Uploading Data (Sending information to the system)**
- ✚ **BPA Pricing**
- ✚ **Response Files (A70,C70,R70,W70)**

## Responsibilities (Cont..)




- **GSA Advantage**
  - ✚ Assist in resolving issues including missing or incomplete data displayed on GSA Advantage
  - ✚ Help companies navigate and understand the site
  - ✚ Help with icons not showing (Disaster Relief, Coop Purchasing, Temp Sales)
  - ✚ Getting information to show the most efficient way possible for the type of products or services provided.

## Responsibilities (Cont..)

### E-Buy

-  Log-in issues (Passwords)
-  Profile updates (email address)
-  Restore deleted RFQ's
-  What SINs category a RFQ is posted

### E-library

-  Information site (Contract numbers, Contact Information, SIN/Schedule Information, Category Guides)
-  Contract End Dates
-  Socio-Economic Status

## Responsibilities (Cont..)

- ✚ **CORS (Contracting Officer Review System)**
  - ✚ **Limited access (Read Only Access)**
  - ✚ **Facilitate communications between CO and Vendor**
  - ✚ **Use as research tool**

## FAQ's

- ✚ My computer crashed and I need to update my prices, how do I do that?
- ✚ I'm trying to log into *Advantage!* to update my prices.
- ✚ I sell batteries but they are listed under the wrong category in *Advantage!*
- ✚ I sent my files today but I don't see them on *Advantage!*
- ✚ Do I need to add pictures to all my items?
- ✚ How do I change my email address and phone number on *Advantage!*
- ✚ How do I get my pricelist to rank over my competitors?

## Contact Us

### Hours of Operation:

**7:30 AM – 5:30 PM EST Monday - Friday**

**Toll Free: 1-877-495-4849**

**Local: 703-605-9992**

**Email: [vendor.support@gsa.gov](mailto:vendor.support@gsa.gov)**

## Web Training

**[http://vsc.gsa.gov/training/online\\_training\\_reg.cfm](http://vsc.gsa.gov/training/online_training_reg.cfm)**

# Questions?

