

## CPES BPA TERMS AND CONDITIONS

### I. TASK ORDER TYPES AND LOCATIONS

While firm-fixed price orders are preferred, GSA and other agencies may place orders in any format permissible under the Contractor's GSA Schedule 03FAC or 00CORP contract.

GSA intends to establish one or more BPA(s) per region as defined below. Work may be required in any GSA office, other Government Agency, or Contractor location.

Local travel is expected and shall be at the Contractor's expense. If GSA requires travel outside of the Contractor's assigned Region, then the Government will authorize and pay for travel in accordance with Federal Travel Regulations in accordance with the Contractor's GSA Schedule terms and conditions, and as agreed to at the task order level (See V.5 for more information). GSA's 11 Regions are:

**New England Region** (headquartered in Boston, MA): includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

**Northeast and Caribbean Region** (headquartered in New York, NY): includes New York, New Jersey, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

**Mid-Atlantic Region** (headquartered in Philadelphia, PA): includes Delaware, Maryland (excluding Montgomery and Prince George's counties), southern New Jersey, Pennsylvania, Virginia (excluding the cities of Alexandria, Falls Church, and Arlington, Fairfax, Loudon, and Prince William counties), and West Virginia.

**Southeast Sunbelt Region** (headquartered in Atlanta, GA): includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

**Great Lakes Region** (headquartered in Chicago, IL): includes Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

**Heartland Region** (headquartered in Kansas City, MO): includes Missouri, Kansas, Iowa, and Nebraska.

**Greater Southwest Region** (headquartered in Fort Worth, TX): includes Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

**Rocky Mountain Region** (headquartered in Denver, CO): includes Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

**Pacific Rim Region** (headquartered in San Francisco, CA): includes Arizona, California, Hawaii, Nevada, and Guam and other US territories.

**Northwest/Arctic Region** (headquartered in Auburn, WA): includes Alaska, Idaho, Oregon, and Washington.

**National Capital Region/Central Office:** DC Metro area, including Washington, DC; Maryland (Montgomery and Prince George's counties); and Virginia (the cities of Alexandria, Falls Church, Arlington and Fairfax, Loudoun, and Prince William counties).

## **II. ORDERING PROCEDURES**

GSA intends to establish multiple BPA(s) in each of its eleven regions with GSA Schedule 03FAC and 00CORP contract holders. Ordering activities shall follow ordering procedures in FAR Subparts 8.405-2 and 8.405-3 as applicable.

In general, GSA and other ordering agencies will order directly from BPA holders based on the place of performance (building location), within the Region where the work is required.

In regions where GSA establishes multiple BPAs, ordering activities process orders as follows:

- For orders at or below the micro-purchase threshold, an ordering activity may place orders directly with any BPA holder in the region.
- For orders over the micro-purchase threshold and up to \$100,000.00, an ordering activity shall forward the requirement, or statement of work and evaluation criteria, to at least three (3) BPA holders in the region.
- For orders over \$100,000.00, the ordering activity shall forward the requirement or statement of work and evaluation criteria to more than three BPA holders.

The ordering activity will evaluate all responses received and place the order with the BPA holder that represents best value to the Government. In general, the ordering activities will expect contractors to prepare quotes within one or two days of issuing the Task Order.

For administrative convenience, BPA orders may include "open market" items (e.g., items that have not already been priced, evaluated and awarded on the Contractor's GSA Schedule) as long as the value of "open market" items included in the order do not exceed the applicable micro-purchase threshold as defined in FAR 2.101. The items must also be clearly identified as "open market" items, in accordance with FAR Subpart 8.402(f).

In addition, a deviation to Federal Acquisition Regulation (FAR) Part 51 was recently granted, giving contractors access to the Federal Supply Schedule (FSS) and Global Supply Program. As approved by the Task Order Contracting Officer (TO CO), BPA holders may issue task or delivery orders against FSS contracts or process requisitions through the Global Supply Program to provide a total solution to the Government. Orders issued under the FAR Part 51 deviation authority will be limited to the ordering

procedures outlined in FAR Subpart 8.405-1, Ordering procedures for Supplies and Services not requiring a Statement of Work. These procedures are used when ordering supplies that are listed in the schedules contracts for the performance of a specific task. Such support materials may be procured on a straight reimbursable basis as a separate CLIN with no add on.

### **III. STATEMENT OF OBJECTIVES**

The following are the scope and objectives of this BPA. At a minimum, the Government will use the performance metrics in Attachment A, Performance Metrics for Contractor BPA and Task Order Performance to determine acceptable performance and quality for meeting the objectives. Ordering activities may also negotiate with contractors to include appropriate metrics at the Task Order level to meet Agency specific requirements and standards including those for energy savings, water conservation, and high-performance green buildings. Contractors who meet or exceed the performance metrics may be able to earn additional performance periods on their BPA (See V.2, Period of Performance) . Contractors who fail to meet the metrics may have their BPA cancelled at the BPA CO's (BPA CO) discretion or may not receive additional options.

This Statement of Objectives complies with the American Recovery and Reinvestment Act of 2009 (The Recovery Act), the Energy Policy Act 2005 (EPACT), the Energy Independence and Security Act of 2007 (EISA) and their successors. It also complies with Executive Order 13423 and 13514 and its successors, and their associated Memorandum of Understanding guidelines. It also supports the EISA energy conservation goals and the standards for high performance green buildings.

#### **III.1 General Requirements**

This BPA requires the contractor to provide any or all of the Comprehensive Professional Energy Services that are available on (*select one*)

- \_\_\_ Schedule 03FAC, SINs 871-202 through 871-210, SIN 003-97 and SIN 800-1000
- \_\_\_ 00CORP SIN CR 0799 A Energy Management Services.

The scope of this BPA includes a range of services and solutions for the Government to satisfy the requirements of The Recovery Act, EISA, and Executive Order 13423, 13514, and their successors. It is the intention of the Government to establish a scope that is broad, sufficiently flexible to satisfy requirements that may change over the period of performance, and fully comprehensive to embrace the full complement of services that relate to energy conservation and the use of renewable energy sources. The Government will require the contractor to provide the services listed in Table 1 below that encompass the SINs listed above. Contractors may find additional descriptions on the GSA Schedule 03FAC web site.

**Table 1 -Comprehensive Professional Energy Services**

<b>SIN</b>	<b>Description</b>
003-97 – Ancillary Repairs and Alternations	Any necessary repairs or alternations to products and services purchased under other SINs in the Schedule.
<b>800-1000 – Other Direct Costs</b>	Charges in direct support of services provided under all other SINs in the Services Department. These charges include accessories or ancillary services or products/equipment needed for, or utilized in performance of, a specific task under this department.
871-202 Energy Management Planning and Strategies	A four-phase comprehensive energy management solution including consulting, concept development and requirements analysis, implementation and change management, and measurement and verification.
871-203 Training on Energy Management	Including, but not limited to reducing energy consumption, mitigating energy system risks, operating systems efficiently, choosing systems, and certification programs such as Leadership in Energy and Environmental Design (LEED).
871-204 Metering Services	Installation of metering services and systems including basic metering, advanced systems, maintenance, installation, removal and disposal of old systems, and using system data to measure results.
871-205 Energy Program Support Services	Includes billing and management oversight and assistance in preparing energy related statements of work. May include certification programs such as LEED.
871-206 Building Commissioning Services	Commissioning, re-commissioning and retro-commissioning of new construction, major modernization projects, and existing buildings to ensure they are designed to operate as energy efficient as possible. May include building certification programs such as LEED.
871-207 Energy Audit Services	Developing, executing and reporting on audit plans, or performing energy or water audits ranging from cursory to comprehensive.
871-208 Resource Efficiency Management	Provide information on steps to improve energy efficiency including onsite analysis and acting as a resource efficiency advocate individual or aggregated buildings.
871-209 Innovations in Energy	Provide innovative approaches to renewable or sustainable energy, sustainability services, and energy management technology and services.
871-210 Water Conservation	Services and consulting related to the reduction of water usage, recycling of water for multiple purposes, retention of water, improvement of water quality and water flow. These services can include facility water audits, water balance, and water system analysis.
CR 799A Energy Management Services (Consolidated) “For the purpose of this requirement renewable energy source compliance is provided”	Includes energy management program support (e.g., energy planning and strategies, energy choice analysis, risk management, metering services, billing and management oversight, and preparing agency statements of work); energy audit services; supplying natural gas sources; supplying electricity (renewable sources too) . “ All sources shall be in compliance with DOE renewable guidance entitled “Renewable Energy Requirement Guidance for EPACT 2005 and Executive Order 13423 found at <a href="http://www1.eere.energy.gov/femp/pdfs/epact05_renewergyguide.pdf">http://www1.eere.energy.gov/femp/pdfs/epact05_renewergyguide.pdf</a>

Note – The SIN descriptions provided above are abbreviated and not verbatim from the GSA Schedules. The contractor shall be required to provide the services indicated in its Schedule contract and BPA.

### III.2 Objectives

The contractor shall perform the services listed above to assist the Government in meeting the objectives listed below. Success in meeting these objectives will positively affect the Contractor's ability to meet the stated performance metrics listed in Attachment A.

#### III.2.1 Meet The Recovery Act, EISA and Executive Order 13423 and 13514 and their successors, requirements for energy reduction and water conservation

- The contractor shall work with Government Agencies when tasked to meet the specific energy reduction and water conservation measures specified in The Recovery Act, EISA, Executive Order 13423, 13514, their successors, and other public laws and regulations by:
  - Performing audits, reviews, energy consumption surveys, and other studies to provide sound recommendations for optimizing building performance and reducing energy costs by identifying energy efficiency improvements and demand reduction strategies. Audits performed by contractors shall comply with DOE guidance related to section 432 of EISA 2007 requirements for energy evaluations entitled **Facility Energy Management Guidelines and Criteria for Energy and Water Evaluations in Covered Facilities (42 U.S.C. 8253 Subsection (f) Use of Energy and Water Efficiency in Federal Buildings) 25 November 2008.** ([http://www1.eere.energy.gov/femp/pdfs/eisa\\_s432\\_guidelines.pdf](http://www1.eere.energy.gov/femp/pdfs/eisa_s432_guidelines.pdf)).
  - Providing consulting services and surveys to identify energy conservation measures and provide sound recommendations to meet energy and water conservation standards.
  - Confirming and updating the records of major equipment and infrastructure systems for energy and water management to enable the Government to properly inventory and maintain it, and make informed decisions to replace old equipment.
  - Providing sound strategies that reflect industry "best practices" to assist Agencies with providing standardized and uniform assessments for maintaining and measuring energy savings and water conservation improvements. Contractors shall follow the guidance in DOE Federal Energy Management Measurement and Verification Guidelines as well as International Performance Measurement and Verification Guidelines for maintaining and measuring savings related to energy and water retrofits. This is required for the Government to use when financing energy and water retrofits, but could be used for any Government project. Refer to [http://www1.eere.energy.gov/femp/pdfs/mv\\_guidelines.pdf](http://www1.eere.energy.gov/femp/pdfs/mv_guidelines.pdf) for more information.
  - Working with Agencies to comply with Federal Energy Management Program and EPACT 2005, EISA, and their successors requirements for energy usage metering in all Federal buildings and recommending the best implementation of advanced meters and other environmental monitoring

systems (EMS) that enable the effective management of the environmental aspects of the Agency's internal operations and activities.

- Implementing identified and approved energy conservation measures and other energy efficiency and water conservation recommendations and solutions approved by the Government in accordance with agreed to schedules.
- Providing renovation and other services as required that implement building sustainability strategies including resource conservation, reduction and use; siting; and indoor environmental quality that enable a LEED (new construction, core, shell and commercial interiors) or LEED Existing Buildings Operation and Maintenance (EBOM) Silver rating for the building.
- Assisting the Government with identifying and applying for rebates and other financial incentives that the Government is entitled to.
- Providing viable plans that will move an agency from red or yellow to green on its OMB Energy Management scorecard.
- Assisting Agencies in developing Energy Star® performance ratings for its buildings and in setting energy performance targets and planning building upgrades.
- Working with Agencies to achieve Federal Energy Management Program and EPACT 2005 (and its successors) requirements for meeting goals for using energy from renewable sources and for reducing water usage and recommending solutions using sustainable energy practices.

### **III.2.2 Partner with the Government to meet reporting requirements, meet socioeconomic goals and provide outstanding customer service**

- The contractor shall ensure all data and reports required by The Recovery Act of 2009, the Energy Independence and Security Act of 2007 (Public Law 110-140), EPACT 2005, Executive Order 13423, and their successors, the LEED program, the Federal Energy Management program (FEMP), the Energy Star® program and other energy related programs are submitted accurately and on schedule as specified.
- The contractor shall provide other data and reports on schedule as requested by the specific task order.
- The contractor shall maintain a high level of customer satisfaction as measured by customer satisfaction surveys.
- The contractor shall assist the Government with meeting its socio-economic goals by using small businesses where appropriate.
- The contractor shall follow documented quality control processes and plans to identify problems and potential solutions, keep the Government informed and implement effective solutions on schedule.

#### **IV. Reporting Requirements**

The Government anticipates placing task orders that support the requirements of The Recovery Act. The legislation carries extensive reporting, tracking, and monitoring requirements.

Contractors shall provide written notification to the BPA Contracting Officer within five (5) days of all new task orders awarded under this BPA. The notification shall include a brief description of the task, name of the requiring entity, period of performance, and estimated dollar value. In addition, the Contractor shall provide one complete copy of each order placed under the BPA to the BPA Contracting Officer within the five-day timeframe.

In addition, Contractors shall electronically update and submit monthly status reports to the BPA Contracting Officer using the format identified in Attachment B. Reports are to be submitted by the 15th of the following month. If the 15th is a holiday or weekend, orders are to be submitted by the first workday following the 15th of the month. Contractors with no volume are still required to submit the monthly status report.

The status reports shall be cumulative, beginning from the time of BPA establishment, and include the following organized by task order number:

- Item No.
- BPA Task Order No.
- Ordering Entity
- Description of Work
- Ordering CO Name and Phone Number/E-Mail Address
- Period of Performance
- Firm Fixed Price (Y/N)
- Other Than FFP/Funded Amount
- Recovery Act-related (Y/N)
- Description of Material Modifications (scope changes, funding increases, etc.)
- Energy Consumption Progress

The Contractor report (Attachment B) shall include these and other fields as required, including energy reduction, if required by the BPA Contracting Officer. Additional reporting fields may be added, at no additional cost.

Finally, for orders utilizing the Recovery Act funds, the Contractor shall report the following information on a quarterly basis as required by the Recovery Act. The contractor shall follow the instructions and enter the required data on [www.FederalReporting.gov](http://www.FederalReporting.gov)

- BPA number and Task Order number
- Amount of recovery funds invoiced during the reporting period

- List of significant services and supplies
- Program or Project title
- Description of purpose and outcomes
- Assessment of progress (not started, <50%, 50% >50%, completed)
- Description of employment impact – number and type of jobs created and retained
- Names and total compensation of five highest compensated officers of the contractor during the contractor’s FY of award if total contracts are greater than \$25 million and represents at least 80% of revenue and not otherwise publically available
- Information on first-tier sub contractors (Name, DUNS, address, subcontract amount, date, description of products and services, compensation (same as above))

Note that the Recovery Act reporting requirements may change when FederalReporting.gov is complete.

## **V. Additional Terms and Conditions**

### **V.1 General**

The Contractor shall comply with all terms and conditions of the awarded GSA Schedule contract under this BPA and orders issued against the BPA. The terms and conditions of the Contractor’s GSA Schedule contract shall prevail over the BPA and task orders, except to the extent that lower prices established in the resulting BPA or task orders take precedence over the GSA Schedule contract higher prices.

The terms and conditions in this BPA apply to all orders placed pursuant to it. In the event of an inconsistency between the provisions of the BPA and task orders, the provisions of this BPA will take precedence.

BPAs do not obligate funds. The Government is obligated only to the extent of authorized orders made under the BPAs. It is the responsibility of the individual ordering entities under the BPAs to ensure adequate funds are available. There is no limit on the dollar value of orders made under the resultant BPAs. The maximum order limitation in the GSA Schedule contract is for determining discounts and does not limit the dollar value of an order.

### **V.2 Period of Performance**

The period of performance will be no longer than five (5) years, consisting of a maximum one-year base period and two (2) one-year option periods; Contractors may earn up to two (2) additional 1-year option periods based on outstanding performance against the performance metrics and standards outlined in the Attachment A – Metrics for Contractor BPA and Task Order Performance. The Government may not exercise the option of Contractors that do not attain the performance standards. The estimated period of performance is provided below, though the dates are subject to change based on date of BPA establishment.



Base Year	Date of BPA Establishment through December 31, 2010
Option Year 1:	January 1, 2011 – December 31, 2011
Option Year 2:	January 1, 2012 December 31, 2012
Option Year 3:	January 1, 2013 – December 31, 2013 (optional based on performance)
Option Year 4:	January 1, 2014 – December 31, 2014 (optional based on performance)

The target date for BPA establishment is December 31, 2009. BPAs established with new contractors will have an initial base period of performance that covers the period between the date the BPA is established and the next review date for all BPAs. This will allow the Government to complete all BPAs at the same time. The BPA period of performance duration is based on FAR Subpart 8.405-3(4) (b) (3) (c).

A BPA may extend beyond the current term of the BPA holder's GSA Schedule contract, as long as there are options in the associated GSA Schedule contract that, if exercised, will cover the BPA's period of performance. The Government may unilaterally extend the term of the BPA by written notice to the Contractor(s) at any time prior to expiration of the current period of performance. The Government reserves the right to add new contractors to the BPA at any time if it is in the Government's best interest.

The Contractor shall notify the BPA CO no less than sixty (60) days prior to the expiration of the Contractor's GSA Schedule 03FAC or 00CORP contract that its contract is about to expire. The BPA will not extend beyond the final expiration of the Contractor's GSA Schedule 03FAC contract.

Termination procedures for task orders are addressed in the underlying schedule contract for each BPA. Based on price and performance, the Government will determine if the BPA remains in its best interest.

The government will use the metrics in Attachment A to cancel BPAs of under-performing contractors and incentivize high-performing contractors. The Government will cancel BPAs by:

- Allowing BPAs to expire instead of exercising an option to renew
- Canceling the BPAs under the provisions identified in the RFQ – The Government expects the Contractor to meet the performance standards described in Attachment A. At a minimum, the Government will review a contractor's performance annually against the performance standards. If the contractor is not able to meet the performance standards, the Government reserves the right to cancel the BPA as it may no longer represent the best-value to the Government in accordance with FAR Subpart 8.403 (d)(3)(d).
- Taking other actions that may be permitted under the BPA's terms and conditions.

Individual ordering activities will specify in each task Order issued the process for assessing contractor work performance on a periodic basis. Individual Task Orders will also specify the corrective action the ordering activity will take if contractor performance is unsatisfactory. At a minimum, the ordering activity shall use the metrics specified in Attachment A to assess performance monthly.

### **V.3 Authorized Users**

Any GSA CO or any warranted CO from a Federal agency, acting within the scope of their delegated procurement authority, may place orders against this BPA. Authorized users may place orders via any means available, including email, facsimile, or in writing.

### **V.4 Invoicing and Payment**

Invoicing and payment will be handled in accordance with the terms and conditions of the Contractor's GSA Schedule 03FAC or 00CORP contract, and as specified in the Contractor's Contractor teaming Arrangement (CTA), where applicable. Details regarding payment will be identified in each task order. Attachment D provides details for invoicing and payment for GSA issued Task Orders.

### **V.5 Travel**

All travel costs associated with the performance of specific task orders will be reimbursed in accordance with the Federal Travel Regulations (FTR) and the terms and conditions of the underlying Schedule contract. As such, estimated allowable and allocable travel costs shall not be included in any proposed lump sum price. Costs incurred for transportation and per diem (lodging, meals and incidental expenses) shall be billed in accordance with the regulatory implementation of Public Law 99-234, FAR Subpart 31.205-46 Travel Costs, and the contractor's cost accounting system. These costs are directly reimbursable by the government.

The Contractor shall obtain approval from the Task Order CO, or his/her designee, in writing, of the requirement for reimbursement of transportation and per diem expenses, prior to traveling. This approval shall include a "not to exceed" estimate of these proposed costs. The Government shall not be charged G&A fees for any travel, unless other procedures are specified in the underlying schedule contract. Contractors shall be reimbursed only for incurred costs at or below the "not to exceed" estimate.

Costs for transportation, lodging, meals, and incidental expenses incurred by Contractor personnel on official company business are allowable subject to the limitations contained in FAR Subpart 31.205-46 Travel Costs.

### **V.6 Price Adjustments**

At no time shall BPA prices exceed awarded prices on the Contractor's GSA Schedule 03FAC or 00CORP contract. The discount pricing relationship established between the

GSA Schedule 03FAC or 00CORP rates and the BPA rates at time of BPA establishment shall be maintained throughout the life of the BPA. The Contractor may offer lower prices in individual task orders.

If, following approval by the GSA Schedule CO, prices are increased on the Contractor's Schedule contract, the Contractor must notify the BPA CO of any resultant change(s) that affect the BPA. Following this notification, the Contractor may request BPA price increases based on the supporting data supplied by the Contractor to the GSA Schedule CO for the Schedule price increases. Any requested BPA price increases must be approved by the BPA CO. BPA price increases will apply to orders on or after the date that the price increase is incorporated into the BPA, but will not apply retroactively. Contractors may not request price increases within the first six months of BPA establishment.

Any price decreases made to the Schedule contract shall be immediately effective for this BPA and identified immediately to the BPA CO. BPA price decreases shall be based on the same percentage from the Contractor's Schedule contract price list on which the BPA pricing is based.

BPA price changes will not affect ongoing task orders unless provided for at the time of task order award or as agreed to by the Task Order CO.

## **V.7 Security**

The Contractor shall comply with the GSA Standard Operating Procedures under HSPD-12. The purpose of HSPD-12 is to establish a common identification standard for Federal Employees and Contractors, when task order performance requires routine access to a federally controlled facility and/or routine access to a federally controlled information system. The Contractor shall be responsible for the cost of complying with HSPD-12. GSA prefers personnel with existing or pre-approved clearances. Please review [CIO P 2181.1 GSA HSPD-12 Handbook](#) at the following Website for additional information and requirements:

<http://gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=17114&channelPage=/ep/channel/gsaOverview.jsp&channelId=-25848>

Additional clearances may be required at the Task Order level.

## **V.8 Administrative Considerations**

The GSA BPA CO is the only person authorized to make or approve any changes to the requirements or terms and conditions contained in the BPA. In the event the Contractor makes any BPA changes at the direction of any person other than the BPA CO, the change will be considered to have been made without authority and no adjustment will be made to cover any increase in cost incurred as a result thereof.

The GSA points of contact for the administration of this BPA are: E. Montrez Nicholson, Contracting Officer at [montrez.nicholson@gsa.gov](mailto:montrez.nicholson@gsa.gov) and Angela Lehman, Program Management Officer at [Angela.lehman@gsa.gov](mailto:Angela.lehman@gsa.gov).

Additional regional points of contact or federal government agency contract officials may be specified after BPA establishment. The Contractor may be asked to provide required BPA deliverables to these points of contact as well.

A separate, Task Order CO will be assigned before the performance of each task order under this BPA. The Task Order CO will be responsible for administering the applicable task order.

The administrative points of contact for the contractor are: (see **BPA Holder contact information** at [www.gsa.gov/energyservicesbpa](http://www.gsa.gov/energyservicesbpa) )

## **V.9 Regional Kickoff Meetings**

The Government may require the contractor to attend regional kickoff meetings within 60 days of BPA establishment. Each region has the option to set the agenda and conduct the meeting. In instances where a single firm receives BPAs for multiple regions, the Government will consider reimbursement of travel expenses for non-local travel to ensure full contractor participation.

## **V.10 Confidentiality and Nondisclosure**

Contractor-generated preliminary and final deliverables, all associated working papers, and other material the Government deems relevant in the performance of Task Order are the property of the U.S. Government and must be submitted to the Task Order CO upon request but no later than the conclusion of the Task Order.

All documents produced for this project are the property of the U.S. Government and cannot be reproduced, or retained by the Contractor. All appropriate project documentation will be given to the Government during or at the conclusion of this BPA. The Contractor shall not release any information without the written consent of the Task Order CO.

Personnel working on any of the described tasks may be required to sign formal non-disclosure and/or conflict of interest agreements to guarantee the protection and integrity of Government and/or Contractor information and documents. The Contractor shall not release, communicate or otherwise disseminate information to any other parties without the written consent of the Task Order CO.

## **V.11 Organizational and Personal Conflict of Interest**

- a. It is recognized by the parties hereto that the effort to be performed by the Contractor under this BPA and its resultant Task Order includes program

- integration and project management support services that involve technical direction; input to preparation of specifications and scopes of work; assistance to the Government during technical evaluations of other Contractors' offers and products; and access to third-party proprietary information. Such activities create a significant potential for certain conflicts of interest, as set forth in FAR Subparts 9.505-1, 9.505-2, 9.505-3, and 9.505-4.
- b. Performance of this contract creates potential organizational conflicts of interest such as are contemplated by FAR Subpart 9.505.
  - c. It is the intention of the parties hereto to prevent both the potential for bias in connection with the Contractor's performance of this contract, as well as the creation of any unfair competitive advantage because of knowledge gained through access to third-party proprietary information.
  - d. Participation in any acquisition or effort related to deliverables under this statement of work, without express written approval from the Task Order CO, shall be prohibited.
  - e. Subcontractors will also be subject to the restrictions identified above.
  - f. Whenever performance under a resulting BPA requires access to another Contractor's proprietary information, the Contractors shall 1) enter into a written agreement with the other entities involved, as appropriate, in order to protect such proprietary information from unauthorized use or disclosure for as long as it remains proprietary; and 2) refrain from using such proprietary information other than as agreed to, for example to provide assistance during technical evaluation of other Contractors' offers or products under a resulting order. An executed copy of all proprietary information agreements by individual personnel or on a corporate basis shall be furnished to both the BPA CO and the Task Order CO within fifteen (15) calendar days of execution.
  - g. In addition, the Contractor shall obtain from each of its employees, whose anticipated responsibility in connection with the work under a resulting BPA may be reasonably expected to involve access to such proprietary information, a written agreement, which, in substance, shall provide that such employee will not, during its employment by the Contractor, or thereafter, improperly disclose such data or information.
  - h. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed by a resulting BPA, the Government reserves the right to terminate the Task Order for default, disqualify the Contractor for subsequent related contractual efforts, and to pursue such other remedies as may be available under law.
  - i. If in compliance with this clause, the Contractor discovers and promptly reports an organizational conflict of interest subsequent to establishment of the BPA, the Task Order CO may choose to undertake termination of the order for convenience of the Government, when such termination is deemed to be in the best interest of the Government.
  - j. The Contractor shall hold the Government harmless and will freely indemnify the Government as to any cost/loss resulting from the unauthorized use or disclosure of any third-party proprietary information by its employees, the employees of Subcontractors', or by its agents.

- k. This provision shall have permanent effect upon any deliverables produced resulting from this statement of work.
- l. Contractors that receive Task Orders to perform studies and/or analysis and provide recommendations to improve the energy efficiency or water conservation of a building are precluded from submitting responses to any subsequent task orders to implement its recommendations for the building
- m. Contractors that receive Task Orders to perform Independent Validation and Verification of another contractors work are precluded from performing any other services for the required building under the BPA or any other related contracts.

## **V.12 Protection of Information**

The Contractor shall be responsible for properly protecting all information used, gathered, or developed as a product of work under a resulting BPA. In addition, the Contractor shall protect all government data, equipment, etc. by treating the information as sensitive.

Sensitive but unclassified information, data, and/or equipment will only be disclosed to authorized personnel as described in the Task Order. The Contractor shall ensure that appropriate administrative, technical, and physical safeguards are established to ensure the security and confidentiality of this information, data, and/or equipment is properly protected. When no longer required, this information, data, and/or equipment shall be returned to Government control; destroyed; or held until otherwise directed by the Task Order CO. Items returned to the Government shall be hand carried or mailed to the Task Order CO or other designee. When authorized, the Contractor shall destroy unneeded items by burning, shredding or any other method that precludes the reconstruction of the material.

## **V.13 Inspection and Acceptance**

### **Place of Inspection and Acceptance**

Inspection and acceptance of all work performance, reports, and other deliverables identified in task orders placed under the established BPAs shall be performed by the Contracting Officer's Technical Representative (COTR) designated in each task order.

### **Scope of Inspection**

All deliverables will be inspected for content, completeness, accuracy, and conformance to Task Order requirements by the designated COTR. Inspection may include validation of information or software through the use of automated tools, testing or inspections of the deliverables, as specified in the Task Order. The scope and nature of this inspection will be sufficiently comprehensive to ensure the completeness, quality, and adequacy of all deliverables.

The period required for inspection and acceptance or rejection by the Government will be designated in each task order.

### **Basis of Acceptance**

The basis for acceptance shall be compliance with the requirements set forth in the Task Order, the Contractor's quote and other terms and conditions of the Task Order/BPA. The Contractor shall correct any deliverable items the Government rejects in accordance with the applicable clauses.

The Government will provide a list of all discrepancies, errors or other deficiencies in writing for all deliverable reports, documents and narratives. The Government will accept the deliverable documents when the Contractor makes the required corrections.

The Contractor shall incorporate all of the Government's comments to any deliverable in the succeeding version of the deliverable or demonstrate to the Government's satisfaction why such comments should not be incorporated.

If the draft deliverable is adequate, the Government may accept the draft and provide comments for incorporation into the final version.

If the Government finds that a draft or final deliverable contains spelling errors, grammatical errors, improper format, or otherwise does not conform to the requirements stated within this Task Order, the document may be immediately rejected without further review and returned to the Contractor for correction and resubmission. If the Contractor requires additional Government guidance to produce an acceptable draft, the Contractor shall arrange a meeting with the designated COTR.

### **Non-conforming Products or Services**

Non-conforming products or services will be rejected. Deficiencies will be corrected, by the Contractor, within the number of days specified in the Task Order at no additional cost to the Government. If the deficiencies cannot be corrected within the identified time period, the Contractor will immediately notify the designated COTR of the reason for the delay and provide a proposed corrective action plan within the number of workdays stipulated by the COTR.

### **V.14 SIN 800-1000 – Other Direct Costs (ODCs)**

Contractors are encouraged to ensure that all contract support items (listed under SIN 800-1000, ODCs) have been awarded to its 03FAC and/or 00CORP Schedule contracts. All contract support items (ODCs) must be listed and priced individually in the schedule contract.

Any GSA Schedule Contract support items proposed under this BPA shall have been awarded to the Contractor's GSA Schedule contract prior to establishment of the BPA. If

additional support items are proposed at the task order, **contractors must** contact GSA Schedule CO and request that GSA modify its GSA schedule contract to include the proposed Contract Support Items as soon as they are identified and prior to submitting its response for this effort in order to provide the GSA Schedule CO sufficient time to process all modification requests.

#### **V.15 Incorporated Documents**

The following documents are hereby incorporated into this BPA

**Removed: Technical/Management Capability submission**

Attachment A: Contractor Performance Metrics

Attachment B: Monthly Reporting Format

Attachment C: Labor Categories and rates (Pricing) (see individual contractor info)

Attachment D: Invoice payment Process

Attachment E: FAR 51 Deviation

HSPD-12 Operating Procedures: Located at

<http://gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=17114&channelPage=/ep/channel/gsaOverview.jsp&channelId=-25848>



## APPENDIX D-6. PERFORMANCE METRIC

### Attachment A – Performance Metrics for Contractor BPA and Task Order Performance

Metric	Performance Standard	Acceptable Level	Surveillance Method	Evaluation Method
The Recovery Act and BPA dollar volume reports delivered complete and on-time each week/quarter*	Contractor shall deliver all reports on schedule. Contractor shall compile all reports accurately and include all required data elements.	95% of reports delivered meet the standard	Actual delivery date compared to required date. Review of report contents vs. required contents	Review all reports on a regional basis and roll up to national level
Compliance with Subcontracting Goals (large businesses only)*	Cumulative subcontracting totals under BPA task orders meet GSA Schedule contract subcontracting goals	100% of subcontracting goals met	Comparison of reported BPA subcontracting achieved for each business type to GSA Schedule contract subcontracting goals	BPA CO reviews annually
Adherence to schedule*	Contractor shall meet agreed to schedules for milestones and deliverables on all task orders	Meet schedule 95% of the time	Comparison of actual delivery date to agreed upon date after adjustments created by the Government	All deliverables as reported by task order CO
Customer Satisfaction*	Contractor conducts business professionally, minimizes disruption to normal building operations, and completes all task orders to the satisfaction of the on-site customer	Rating of 80% or higher	Customer post project survey	Review of all returned surveys
Job Creation*	Contractor is able to retain and create jobs as proposed	85% of proposed hiring and retention levels	From the Recovery Act required reporting information	Review by BPA CO quarterly
Energy Savings*	Completed projects result in the facilities' ability to achieve energy savings and water conservation goals	Results fully meet E.O. 13423 or its successors' standards one year after project completion	Full measurement of energy and water use for one year after project completion	Comparison of energy use baselines and/or utility bills before and after project

**\*The BPA Contracting Officer retains the flexibility to make decisions regarding option extensions based on each contractor's achievement of the performance metrics above.**

**Attachment B – Monthly Reporting Volume Format:**

ITEM NO.	BPA TASK ORDER NO.	ORDERING ENTITY	DESCRIPTION OF WORK	CONTRACTING OFFICER NAME, PHONE NO. AND E-MAIL ADDRESS	PERIOD OF PERF.	FIRM-FIXED PRICE (Y/N)	OTHER THAN FFP/ FUNDED AMOUNT	Recovery Act RELATED (Y/N)	DESCRIPTION OF MATERIAL MODIFICATIONS (SCOPE CHANGES, FUNDING INCREASES, ETC.)	ENERGY CONSUMPTION PROGRESS

**Attachment C – Labor Categories and Pricing**

**(This information can be found on the CPES BPA portal at: [WWW.GSA.GOV/ENERGYSERVICESBPA](http://WWW.GSA.GOV/ENERGYSERVICESBPA) and clicking on the individual contractor(s))**

Insert the appropriate excerpts of the Contractor’s Price submission in this attachment.

(Contractor’s Name) BPA price submission dated (see individual contractor) is incorporated as detailed below:

**BPA Labor Categories**

(Contractor’s Name) BPA labor categories, minimum requirements, and representative roles are identified in Table C-1 below. Over the life of this BPA and subsequent task orders, as (Contractor’s Name) obtains additional Schedule 03 FAC labor categories and rates, (Contractor’s Name) will submit them to the GSA BPA CO to determine if adding the new labor categories to the BPA will benefit the Government.

<b>Labor Category</b>	<b>Description</b>	<b>03FAC or OO CORP Rate</b>	<b>Discounted Rate</b>

**Self-certification:**

[Insert Contractor Name, self-certification here]

Insert other pertinent rate and pricing information from the Contractor’s technical quote and price submission here: **(See information listed on GSA Advantage, Strategic Sourcing BPAs aisle)**

## **Attachment D – Invoice Payment Process**

### **GSA Orders:**

For GSA orders, unless otherwise specified in the task order, password and electronic invoice access may be obtained through GSA web site [www.finance.gsa.gov](http://www.finance.gsa.gov). Along with submission to Ft Worth finance, a copy shall be sent via email to the COTR and task order Contracting Officer:

Requests for Payments shall be submitted in accordance with the format contained in GSAR 552.232-72, INVOICE REQUIREMENTS (APR 1989), to be considered proper for payment. In addition, the data elements indicated below shall be included on each invoice.

Task order number: (from GSA Form 300, Block 2).

Paying Number: (ACT/DAC NO.) (from GSA Form 300, Block 4).

The Contractor shall provide the Government with invoice detail in electronic format to be uploaded into the FAS Invoice Tracing database. Since each task order will include different tasks and hours, the Contractor shall work with the FAS to establish a format and procedure for supplying the invoice data.

The Contractor may invoice on a monthly basis. The invoice shall include the period of performance covered by the invoice and the CLIN number and title and Task Order number. All hours and costs shall be reported by CLIN element and Contractor employee, and shall be provided for the current billing month and in total from project inception to date. If teaming or subcontracting is proposed, one consolidated invoice from the prime Contractor shall be submitted in accordance with other terms and conditions of the RFQ. The Contractor shall provide the invoice data in spreadsheet form with the following detailed information. The listing shall include separate columns and totals for the current invoice period and the project to date.

- Employee name (current and past employees)
- Employee company labor category
- Employee labor category
- Monthly and total cumulative hours worked
- Burdened hourly labor rate
- Cost incurred not billed

### **Non-GSA Task Orders:**

Contractors shall follow the instructions for invoicing and payment for the ordering Agency. The ordering Agency's task order shall include detailed invoicing and billing instructions that follow Agency policy and procedure.

**Attachment E**

**U.S. General Services Administration**

**Federal Acquisition Regulation (FAR)  
Part 51 Deviation Ordering Guide**

**Pub Number:** 10-00253

**Date Posted:** 02/05/2010

**Version:** 1 [One Country. One Mission. One Source.](#)

# 1.0 Introduction

## 1.1 Purpose

Federal Acquisition Regulation (FAR) 51.1, Contractor Use of Government Supply Sources, prescribes policies and procedures under which contractors may use government supply sources. Currently, contracting officers may authorize contractors to use General Services Administration (GSA) sources of supply in the performance of cost-reimbursement contracts and under other limited scenarios when determined to be in the best interest of the Government.

In order to better meet the needs of GSA's customer agencies, a deviation to FAR Part 51.1 has been approved to expand the authority of contractors to use GSA sources of supply. Specifically, Federal Government contracting officers have been authorized to give GSA contractors access to the Federal Supply Schedule (FSS) and GSA Global Supply Programs when deemed appropriate for fulfillment of their agency requirements. Please note that the FSS Program is inclusive of those Schedules managed by the Department of Veterans Affairs. This authority is limited to orders:

- Placed on a time-and-materials (T&M)/labor-hour (LH) basis—an order placed by the Federal Government to the buying contractor can be partially fixed price, but the portion of the order for the items to be procured using the FAR 51 deviation must be T&M/LH;
- For ancillary supplies/services that are in support of the overall order such that the items are not the primary purpose of the work ordered, but are an integral part of the total solution offered;
- Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;
- Placed by the Federal Government. The authorization is **NOT** available to state and local governments.

## 1.2 Benefits

The ability for GSA contractors to purchase from the FSS and Global Supply Programs benefits our customers and contractor community.

- Allows GSA contractors to provide a total contract solution to meet customers' needs.

- Expands upon existing benefits of GSA vehicles, such as streamlining of procurements, ease of ordering, leveraged pricing, time savings, and responsible contractors.
- Meets customer needs expeditiously because the ancillary supplies and services are readily available from the FSS Program or Global Supply Program.
- Reduces agency procurement and contract administration costs.
- Provides agencies opportunities to increase utilization of small businesses.
- Reduces the necessity for government furnished equipment (GFE), which is labor intensive to properly administer.
- Simplifies market research via existing GSA eTools.
- Encourages competition among contractors to seek the best solution, resulting in cost savings to the Government.
- Enables use of supply funds by contractors, which is the preferred payment method for some agencies.

### **1.3 Definitions**

- Federal Government: The eligible user of the FAR Part 51 deviation.
- Buying Contractor: The contractor who receives the primary order from the Federal Government and subsequently acts as the Federal Government’s agent when placing an order to the selling contractor.
- Selling Contractor: The contractor who receives the secondary order placed under the FAR Part 51 authority from the buying contractor.
- Authorization: Written approval from the Federal Government for the contractor to use a Government supply source.
- Time and Materials: A time-and-materials contract provides for acquiring supplies or services on the basis of— direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and actual cost for materials (FAR16.601(b)).
- Labor Hour: A labor-hour contract is a variation of the time-and-materials contract, differing only in that materials are not supplied by the contractor (FAR 16.602).

## **2.0 Criteria for Use**

When utilizing the authority granted under the FAR Part 51 deviation, all of the following criteria need to be met.

### **2.1 Primary Orders Are Issued on a Time-and-Materials (T&M)/Labor-Hour (LH) Basis**

All or part of a primary order (order issued from the Federal Government to the buying contractor) must be on a T&M/LH basis. A portion of the primary order may be fixed price, but the items to be purchased under the FAR Part 51 authority must be structured on a T&M/LH basis. T&M/LH contracts/orders are utilized when it is not possible at the time of award to estimate accurately the extent or duration of the work or to confidently anticipate the costs. Prior to awarding an order with a “not to exceed ceiling price”, the Federal Government verifies that the ceiling price for support items and services purchased is reasonable.

When GSA contractors place orders with MAS and Global Supply contractors under the FAR 51 authority, the buying contractor who is purchasing the items must not add a fee or markup to the items. Additional fees/surcharges/markups are NOT permitted. Items must be invoiced at the price for which they were procured from the selling contractor.

## **2.2 Orders Are Limited to FAR 8.405-1, Ordering Procedures for Supplies, and Services Not Requiring a Statement of Work**

Buying contractors must follow the procedures outlined in *FAR 8.405-1*. The procedures are used when ordering supplies and services that are listed in the Schedule contract at a fixed price for the performance of a specific task, where a statement of work is not required (e.g., installation, maintenance, and repair).

Purchases made on behalf of the Federal Government under the FAR 51 Part authority should not be issued to a contractor's own firm(s), subsidiary(s), subcontractors or teaming partners in order to maximize competition.

## **2.3 Supplies and/or Services are Ancillary to the Primary Purpose of the Order**

Supplies and/or services procured under the FAR 51 authority must be ancillary in nature. The supplies and services shall not be the primary purpose of the work ordered, but an integral part of the total solution that is offered. Please note that there are different and additional requirements associated with Special Item Numbers (SINs) on numerous Schedules that contain Ancillary Repair and Alternations (R&A).

## **2.4 Use of Deviation is Not Available to State and Local Governments**

The authority does not extend to state and local ordering activities and is intended for use only by Federal Government contracting officers.

# **3.0 Responsibilities**

## **3.1 Federal Government**

### **The Federal Government Must:**

- Use the FAR 51 deviation appropriately and in accordance with applicable FAR Parts, including FAR Part 51 and the guidance contained in this ordering guide.
- Include Clause 52.251-1 Government Supply Sources, in applicable Request for Quotes (RFQs). The RFQ should also specifically state that items may be proposed on a T&M/LH basis using the FAR Part 51 authority. However, the Federal Government may not mandate that the quote/proposal include items under FAR 51.
- Issue a written authorization to the buying contractor in accordance with FAR Subpart 51.102. An authorization template, that contains additional information specific to the FAR Part 51 deviation, is provided in Section 6.0.



- Ensure that the buying contractor is in compliance with the written authorization and has followed the ordering procedures in FAR 8.405-1 to promote competition. Compliance with FAR 8.405-1 can be verified by requesting from the buying contractor evidence that competition has been conducted, e.g. RFQ, quotes received, etc.
- Include the supplies and services ordered by the buying contractor in the dollar amount reported to Federal Procurement Data System (FPDS-NG) in accordance with FAR 4.606. Orders from GSA stock and the GSA Global Supply Program do not need to be reported in FPDS-NG.
- Assign the AAC or DODAAC if the contractor will be using the GSA Global Supply Program.

## 3.2 Buying Contractor

### Contractors Placing Orders Must:

- Identify and separate those ancillary supplies/services that are proposed to be purchased under the FAR Part 51 authority on the quote submitted to the Federal Government and on the subsequent invoice.
- Purchase supplies and/or services at the Schedule contract price (or lower) with no fee/surcharge/markup. If supplies and/or services are provided by the selling contractor at lower than the contract price, the buying contractor must pass on the savings by invoicing the Federal Government accordingly.
- Ensure that the products and/or services procured under FAR 51 procedures are ancillary to the overall project/order.
- Provide a copy of the written authorization from the Federal Government with each applicable order to the selling contractor.
- Ensure that the buying contractor's Schedule contract number is on each order issued to the selling contractor.
- Remit full payment to the selling contractor.
- Submit documentation of the transmittal of full payment to the selling contractor when invoicing the Federal Government.
- Follow any applicable FSS or GSA Global Supply Program ordering procedures in addition to procedures outlined in FAR 8.405-1 and FAR Part 51. For more information on placing orders with GSA Global Supply, please visit [www.gsaglobalsupply.gsa.gov](http://www.gsaglobalsupply.gsa.gov).

## 3.3 Selling Contractor

### Schedule Contractors Accepting Orders Must:

- Have the ability to accept or reject orders from the buying contractor.
- Ensure that a copy of the written authorization from the Federal Government is included in the order issued by the buying contractor.
- Ensure that the buying contractor's contract number is shown on each order.
- Sell to the buying contractor at the MAS contract price or lower pursuant to FAR 8.4.
- Understand that a purchase made under the authority of FAR Part 51 does not trigger a price reduction under GSAR clause 552.238-75, Price Reductions.

- Include on each invoice the language, “in care of ‘[name of government agency]’ under written authorization from \_\_\_\_\_ dated \_\_\_\_\_”.
- Assume the financial risk and other risks of selling directly to another contractor. Any dispute involving the distribution of payment between the buying and selling contractor will be resolved without any involvement by the Federal Government. Since each contractor has a Schedule or Global Supply contract, each contractor is held accountable under the terms and conditions of its contract for any problems, such as warranty or performance issues.
- Track and report sales as Schedules contract sales, and remit the Industrial Funding Fee (IFF) accordingly.

### **3.4 Global Supply**

#### **GSA Global Supply will:**

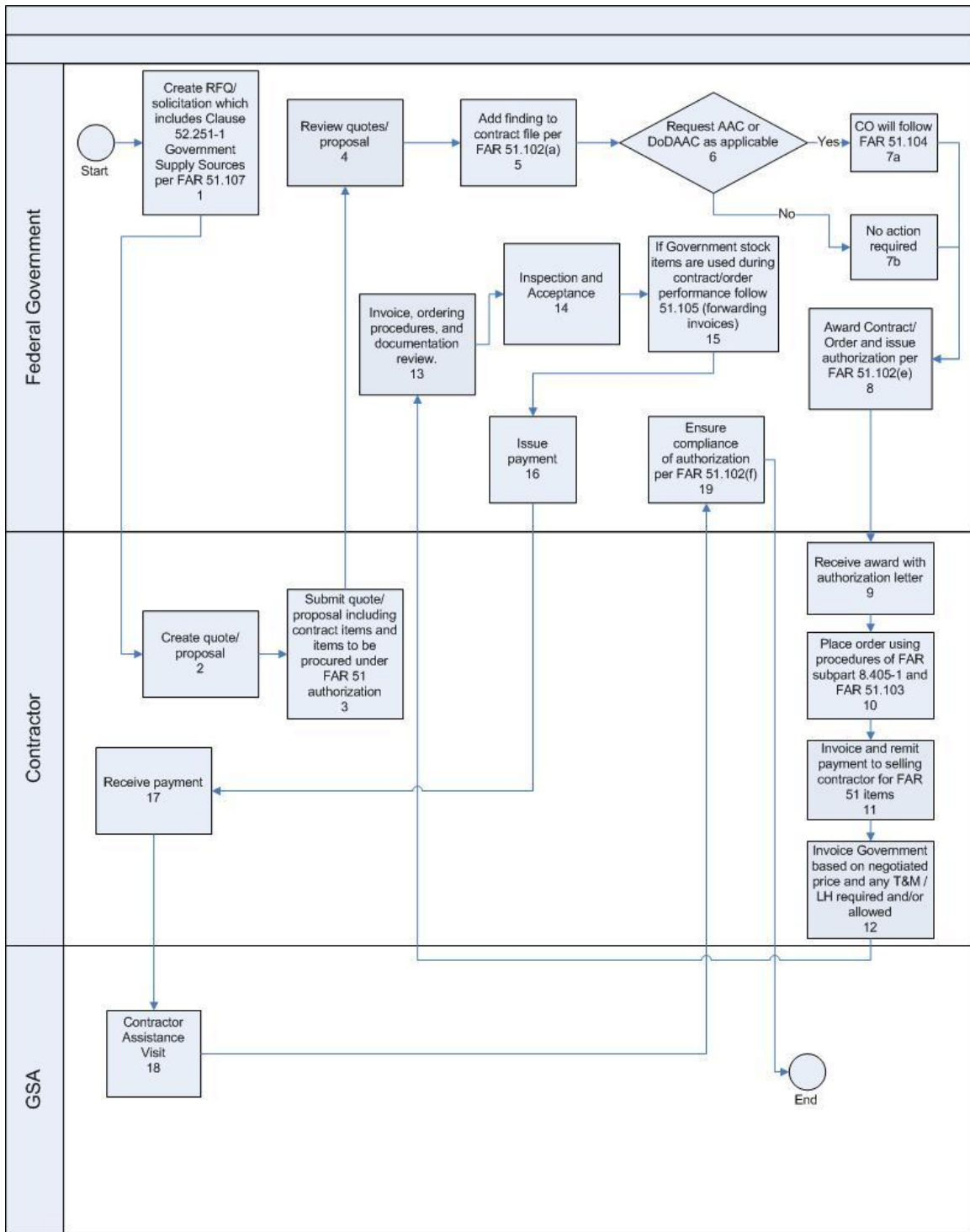
- Accept all orders from buying contractors, provided the contractor provides evidence that he has the proper authorization and an Activity Address Code (AAC) or Department of Defense Activity Address Code (DODAAC).
- Charge the standard price.
- Follow normal requisition processes using assigned AAC or DODAAC.

## **4.0 Process**

The process map below outlines the general ordering process and each stakeholder’s responsibilities for use of the FAR Part 51 deviation. The process steps are numbered in sequential order, and the following section (4.2) elaborates on each of the steps.

For more information on placing orders with the FSS Program, please visit [www.gsa.gov/schedulesordering](http://www.gsa.gov/schedulesordering). For more information on placing orders with GSA Global Supply, please visit [www.gsaglobalsupply.gsa.gov](http://www.gsaglobalsupply.gsa.gov).

## 4.1 Process Map



## **4.2 Explanation of Process Steps**

### **4.2.1. (Federal Government) Include Clause 52.251-1**

The Federal Government includes Clause 52.251-1, Government Supply Sources, in all solicitations/Request for Quotes (RFQ) to indicate to prospective offerors that items to be procured under the FAR Part 51 deviation may be proposed as part of the quote/proposal. The solicitation/RFQ should also specifically state that the items will be awarded on a T&M/LH basis. The Federal Government should not mandate that the quote/proposal include items under FAR Part 51.

### **4.2.2 (Buying Contractor) Create quote(s)/proposal**

The buying contractor is responsible for preparing a quote/proposal in accordance with the solicitation/RFQ requirements. The contractor does not have to utilize FAR Part 51; however, if he chooses to do so, all ancillary items to be purchased pursuant to the FAR Part 51 authority will be proposed on a T&M/LH basis with an established ceiling price. Items proposed to be purchased under FAR 51 should be clearly labeled as such and separated from proposed, fixed price Schedule items.

### **4.2.3 (Buying Contractor) Submit quote(s)/proposal**

The contractor submits the prepared quote(s)/proposal to the Federal Government.

### **4.2.4 (Federal Government) Review quote(s)/proposal**

The Federal Government reviews the submitted quotes/proposals in accordance with the RFQ/solicitation and FAR Subpart 8.4.

- T&M/LH – When reviewing a T&M/LH pricing structure where a not to exceed or estimate is used for all proposed items, including ancillary items and services, the Contracting Officer will verify that the estimated price/ceiling price is reasonable given the proposed labor mix, level of effort, type of other direct costs included, etc.
- Combination of Fixed Price and T&M/LH - The Contracting Officer will review the proposed items under the contractor's schedule contract as a fixed price and will verify that the estimated ceiling price for support items and services to be purchased pursuant to the FAR Part 51 authority on a T&M/LH basis is reasonable.

### **4.2.5 (Federal Government) Add written finding supporting the issuance of the authorization to the contract file per FAR 51.102(a)**

The Federal Government will place a written finding in the contract file that supports issuance of the authorization to the buying contractor to use Government supply sources in accordance with FAR 51.102(a).

## **4.2.6 (Federal Government) Request AAC or DODAAC as applicable**

This step is applicable for orders being placed with GSA Global Supply. An AAC is a code that identifies an activity that has authority to requisition or receive material. The DODAAC serves a similar purpose for DOD activities. In accordance with FAR 51.104, the Federal Government will request an AAC/DODAAC with a time limited access code for the contractor, as applicable, so that the contractor may requisition for the contract.

## **4.2.7 Is an AAC or DODAAC required?**

### *a) Yes*

Follow FAR 51.104 Furnishing Assistance to Contractors, which describes how the Federal Government should go about helping the contractor with the AAC and the associated ordering information and instructions - FEDSTRIP or MILSTRIP and forms

### *b) No*

No action is needed.

## **4.2.8 (Federal Government) Award contract or order and issue authorization per FAR 51.102(e)**

The authorization must include all of the applicable elements listed in FAR 51.102(e). A suggested template is attached in Section 6.0. Please note that the Federal Government may include any other limitations or conditions in the authorization when necessary, e.g. dollar value thresholds (FAR Part 51.102(e)(4)).

## **4.2.9 (Buying Contractor) Receive award with written authorization**

When the contractor receives the contract or order award, it will include a copy of the written authorization (see Step 8).

## **4.2.10 (Buying Contractor) Place order using proper procurement procedures**

The buying contractor must comply with FAR 8.405-1 when purchasing from the Federal Supply Schedules and follow the normal requisition process when purchasing from the Global Supply Program. In addition to the procedures outlined in FAR 51.103, the contractor should also follow the best practices outlined in this ordering guide. The buying contractor must provide a copy of the authorization provided by the Federal Government to the selling contractor.

## **4.2.11 (Buying Contractor) Invoice and remit payment to selling contractor for items procured under the FAR 51 authority**

The buying contractor must remit full payment to the selling contractor prior to invoicing the Federal Government.

#### **4.2.12 (Buying Contractor) Invoice the Government**

The buying contractor submits an invoice reflective of the pricing agreement. The contractor passes through the purchase price of items procured under FAR Part 51 with no fee or markup. Items purchased under the FAR Part 51 authority should be identified and separated from the rest of the items on the invoice. The buying contractor should provide appropriate documentation that the selling contractor has been paid in full.

#### **4.2.13 (Federal Government) Invoice, ordering procedures and documentation review**

The Federal Government reviews the invoice prior to approving payment. In a T&M/LH order, the Federal Government is paying the contractor at the schedule price paid by the contractor (minus any discount) for individually line itemed labor-hours and materials. It is the Federal Government's responsibility to ensure that the contractor has complied with all stipulations in the written authorization. The Federal Government should request additional documentation to support that the contractor followed the appropriate procurement procedures.

#### **4.2.14 (Federal Government) Inspection and Acceptance**

The Federal Government inspects and accepts the products and/or services.

#### **4.2.15 (Federal Government) If Government stock items are used during contract performance follow FAR 51.105 (forwarding invoices)**

FAR 51.105 states that GSA, DOD and VA will wait to forward a bill for supplies from Government Stock to a contractor until the supplies have been shipped.

#### **4.2.16 (Federal Government) Issue payment**

The Federal Government will authorize and issue payment.

#### **4.2.17 (Contractor) Receive payment**

The contractor who placed the order receives payment from the Federal Government.

#### **4.2.18 (GSA) Contractor Assistance Visit (CAV)**

The Industrial Operations Analyst (IOA) conducts Contractor Assistance Visits (CAVs) periodically throughout the contract term.

## 4.2.19 (GSA)

The Industrial Operations Analyst (IOA) generally conducts Contractor Assistance Visits (CAVs) at midterm and end of the contract term. The CAV is a review of the contractor's processes to meet Federal Supply Schedule contract requirements.

*CAV Question (new in late 2010) – Was an order(s) placed by a GSA contractor for a Government Federal Government and fulfilled by a Federal Supply Schedule contractor?*

*a) No*

No review is needed.

*b) Yes*

Starting in late 2010 and as part of the routine CAV, the IOA will also verify that a written authorization(s) is in place for applicable sales. The IOA will report accordingly to the GSA Contracting Officer for the Schedule contract.

## 4.2.20 (Federal Government) Ensures that authorization and ordering procedures are followed properly

The Federal Government Contracting Officer who grants the authorization is responsible for ensuring that the contractor has complied with the written authorization and all applicable regulations.

# 5.0 Questions and Answers

**Question:** Can the Federal Government Contracting Officer tailor the written authorization?

**Answer:** Yes. FAR Part 51.102(4) permits the authorization to be tailored. The Contracting Officer may limit the scope and purchasing authority by customizing the authorization to limit the scope to specific supplies or services, specific schedules, dollar thresholds, socioeconomic requirements, etc.

**Question:** Does the selling contractor have to accept an order placed by the buying contractor?

**Answer:** No. Accepting an order from a buying contractor is optional.

**Question:** When the buying contractor is procuring Schedule items from another Schedule contractor, does the buying contractor have to report the sales to GSA and pay the IFF?

**Answer:** No. The selling contractor is responsible for reporting sales and remitting the IFF. Contractors placing orders do not report sales and remit IFF on items procured under FAR Part 51. When acting under the authority granted by the FAR 51 deviation, the buying contractor is an authorized user of GSA's FSS and Global Supply Programs. The products/services procured under this authority are not considered to be MAS sales because these items are not on the buying contractor's Schedule contract and are therefore not subject to sales reporting and

IFF remittance. To ensure that the sales are segregated appropriately, adjustments to the buying contractor's sales tracking system may be necessary.

**Question:** So even though the selling contractor is selling their Schedule items to another Schedule contractor, the sales are still considered to be Schedule sales?

**Answer:** Yes. Contractors accepting orders report sales and remit IFF on items procured under FAR Part 51. When accepting orders from the buying contractor with a valid authorization, selling contractors are making MAS contract sales to an authorized user of the FSS Program pursuant to the FAR 51 deviation. As such, the products/services procured under the authority are considered to be MAS contract sales. All contract requirements for sales reporting and IFF remittance apply. To ensure that the sales are segregated appropriately, adjustments to the selling contractor's sales tracking system may be necessary.

**Question:** Does the Price Reduction clause apply to FAR Part 51 sales?

**Answer:** No. In the normal course of business, FSS contractors are contractually obligated to notify the GSA Contracting Officer of price reductions in accordance with GSAM clause 552.238-75 Price Reductions. However, GSA contractors purchasing from the FSS Program and/or Global Supply Program in accordance with FAR 51.101 are authorized users; therefore, pursuant to GSAM clause 552.238-75(d)(2) Price Reductions, there is no price reduction for sales to eligible ordering activities under a Schedule contract.

**Question:** Can the Federal Government modify an existing order to incorporate the FAR 51 authority?

**Answer:** No. The authorization needs to be issued with the original order.

**Question:** Can the Federal Government modify an existing Blanket Purchase Agreement (BPA) to incorporate the FAR 51 authority?

**Answer:** No.

**Question:** Can the buying contractor add any additional markup/fee onto the items procured under the FAR 51 authority, even if the fee is associated with a legitimate cost like a material handling charge?

**Answer:** No. The items procured under the authority must be passed through to the Federal Government at the MAS contract price less any applicable discount. No markup of any kind is permitted on this portion of the order.

**Question:** Can the buying contractor use GSA e-Buy to satisfy the requirements of FAR 8.405-1?

**Answer:** Not yet. GSA intends to make the necessary modifications to e-Buy to permit use by contractors in the near future. It's also possible that GSA will mandate e-Buy or other electronic tools; however, at the moment, these tools are not available for contractor use.



**Question:** If the buying contractor chooses not to use the FAR 51 authority, what other options are available to satisfy the Federal Government's overall requirement?

**Answer:** There are other options available. Refer to [www.gsa.gov](http://www.gsa.gov) for more information. For example, if permitted by the order, contractors may use contractor team arrangements ([www.gsa.gov/cta](http://www.gsa.gov/cta)), subcontracts, and open market items in accordance with FAR 8.402(f).

## 6.0 Authorization Template

### A. This FAR 51 deviation authorization is for orders:

- Placed on a time-and-materials (T&M) basis;
- For supplies/services that are ancillary or in support of the overall order;
- Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;
- For new contracts and orders. Authorizations under the FAR 51 authority cannot be issued on existing contracts or orders; and
- Placed by the Federal Government. The authorization is not available to state and local governments.

This authorization is limited to the following dates: The period from \_\_\_\_\_ to \_\_\_\_\_.

This authorization is limited to the following specific dollar amount: \_\_\_\_\_ per period \_\_\_\_\_.

This authorization is limited to the following Federal Supply Schedule(s): All \_\_\_\_\_ Limited to only the following Schedule(s):

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This authorization is limited to the following Global Supply Program product(s): All \_\_\_\_\_ Limited to only the following product(s):

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The property acquired under this authority will:

Automatically vest in title to: Government \_\_\_\_\_ Contractor \_\_\_\_\_

Additional limitations or conditions for use of this authority:

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## **B. As a user of this authority under the Federal Supply Schedule Contracts, you must comply with the following:**

- Follow any applicable FSS ordering procedures in addition to procedures outlined in FAR 8.405-1. FAR 51, agency supplements, any other applicable statutes and regulations;
- In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the terms and conditions of your Federal Supply Schedule contract will govern;
- Pass through supplies and/or services at the Schedule contract price (or lower) with no fee/surcharge/markup. If supplies and/or services are provided by the selling contractor at lower than the contract price, the savings must be passed on to the government by charging the ordering activity accordingly;
- Ensure that the products and/or services procured under FAR 51 procedures are ancillary to the overall project/order;
- Provide a copy of the written authorization from the ordering activity with each applicable order;
- Ensure that the Schedule contract number is on each order;
- Remit full payment to the selling contractor prior to invoicing the ordering activity;
- Not issue any orders under the FAR 51 authority to my own firm(s), subsidiary(s), subcontractors or teaming partners; and
- Ensure that the selling contractor includes on each invoice, “in care of ‘[name of government agency]’ under written authorization from \_\_\_\_\_ dated \_\_\_\_\_”.

## **C. As a user of this authority under the GSA Global Supply Program, you must comply with the following:**

- Follow any applicable GSA Global Supply Program ordering procedures;
- Ensure that the products and/or services procured under FAR 51 procedures are ancillary to the overall project/order;
- Provide a copy of the written authorization from the ordering activity with each applicable order;
- Ensure that the Global Supply number is on each order; and
- Not issue any orders under the FAR 51 authority to my own firm(s), subsidiary(s), subcontractors or teaming partners.

## **Contractors placing orders for Government Supply shall—**

- (1) Comply with the requirements of the contracting officer’s authorization, using FEDSTRIP or MILSTRIP procedures, as appropriate;
- (2) Use only the Government activity address code obtained by the contracting officer in accordance with 51.102(e) along with the contractor’s assigned time limited access code, when ordering from GSA Customer Supply Centers. Time limited access codes should be reviewed at periodic intervals and extended/cancelled based on the Government’s need; and
- (3) Order only those items required in the performance of their contracts.

## **The contractor is hereby authorized to use the following supply source(s):**

The GSA Supply Program (Requisitioning with FEDSTRIP or MILSTRIP): **Yes No**

**Note:** When requisitioning from GSA or DoD, the contractor shall use FEDSTRIP or MILSTRIP, as appropriate, and include the activity address code assigned by GSA or DoD. This authority should be time limited with automated pass code expiration and accounts monitored. When requisitioning from the VA, the contractor should use FEDSTRIP or MILSTRIP, as appropriate, **Optional Form 347**, Order for Supplies or Services (see 53.302-347), or an agency-approved form. When placing orders for helium with the Bureau of Land Management, the contractor shall reference the Federal contract number