

TESTIMONY OF

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**SCHEDULING SUCCESS? ISSUES AND OPPORTUNITIES FOR**

**SMALL BUSINESSES ON THE GSA SCHEDULES**

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Good morning Mr. Chairman and Madam Ranking Member. It is an honor to have this opportunity to testify today before the House Small Business Committee Subcommittee on Contracting and Workforce. Today's topic, "Scheduling Success? Issues and Opportunities for Small Businesses on the GSA Schedules" is of high interest to me and many of my colleagues in the realm of government procurement. Small businesses comprise a vital part of the government's supplier base and the GSA Schedules program is one of the largest programs through which the government acquires commercial services, products and solutions.

I have worked in the field of GSA Multiple Award Schedule contracting for nearly 23 years. Over that time I have worked extensively with Congress, the General Services Administration and the Office of Management and Budget to shape the Schedules program into a program that offers fair and streamlined competition, reasonable rules, and a speed of use that enables the Schedules program to quickly meet the needs of an evolving federal government. For 20 years I led the Coalition for Government Procurement, a leading association of Schedule contract holders. I have written or contributed to four books on government contracting, including two specifically on the Schedules program. I served on the Multiple Award Schedule Advisory Panel established near the end of the Bush Administration that made several recommendations to GSA leaders on ways to improve the Schedules program so that it could continue to grow and evolve to serve its government customers in the best possible way. I continue to teach and advise companies on government business matters.

## **HISTORY**

The Multiple Award Schedules program operated by the General Services Administration is the single best avenue for small businesses to compete for government business in today's environment. Having a Schedule contract allows small firms to vie for, and win, federal contracts every day. The thousands of successful small firms that hold GSA Schedule contracts are a testament to the creativity, nimble solutions, and dedication to service that are emblematic of small businesses everywhere.

The Schedules program has an impressive historical record of supporting small businesses as well. For over 20 years small firms have received between 30 and 33% of Schedule task orders. This was true when total Schedule sales were \$3-5 billion a year, but is also true today as Schedule sales exceed \$40 billion. It is clear that small businesses have succeeded as the Schedules program has succeeded. No procurement program open to businesses of all sizes can match the consistent, highly successful rate of small business contracting success that is a hallmark of the GSA Multiple Award Schedules program.

Yet, even the impressive percentage of direct small business contracting, nearly 10% over the government's statutory small business use goal, tells only part of the story about the ways in

which the Schedules program benefits small businesses. Thousands more small firms participate in the program as dealers or subcontractors. Certain market segments, such as office furniture, rely on a robust network of dealers – most of them small firms – to serve federal clients. While a large business may be the actual contract holder, that contractor is reliant on its small business dealer network for things like design, installation, and service. There is no way the large business could be successful, or the government customer happy, without the services of these small businesses.

Similarly, each Schedule contract awarded to a large business has its own small business subcontracting plan. Large businesses have to demonstrate that they have a viable plan to use small firms as a condition of holding a Schedule contract. These plans also have specific targets for different socio-economic groups, such as service-disabled veteran or women-owned businesses. Large businesses are consistently reviewed and evaluated by both GSA and SBA officials to ensure that they are making adequate progress toward achieving their goals.

So, whether a small firm holds its own Schedule contract, or participates via a contract held by another business, the Schedules program supports thousands of small businesses across the country, representing hundreds of thousands of jobs.

## **CURRENT FLEXIBILITY**

Today, the Schedules program has new capabilities to further enhance the ability of small firms to compete for and win government business. Rules implemented in November of last year allow agencies to specifically set-aside procurements for small businesses when they elect to use the Schedules program as their purchasing vehicle. While Schedule customers were previously allowed to consider small business size as one of many evaluation factors, the new rules allow for a specific Schedule procurement to be set-aside for small firms if the contracting officer making the purchase decides that doing so is in the best interest of the government.

I believe that this flexibility will draw more federal agencies to the Schedules program as they look to take advantage of the thousands of small businesses represented on it and take advantage of the streamlined ordering procedures of Schedule contracts themselves. I believe these current rules strike a very good balance by allowing contracting officers the flexibility to conduct Schedules-based set-asides when they believe that such an action is in the best interest of the government, while not mandating that certain procurements must, at all times, be set aside.

Although the current rule is only 7 months old, I believe that data collected at the end of the current fiscal year will show that small businesses have realized a steady portion of Schedules-based work, even at a time when Schedule sales overall may have declined somewhat due to

GSA has taken good initial steps to train federal agencies on this new capability. They regularly hold training classes for buyers and even have training material available on their web site. While there are thousands of contracting professionals in government acquisition, GSA is making a decent effort to keep them abreast of this new small business capability.

Maintaining the option to choose ensures that the ease of use always attributed to Schedule contracts remains so that the government can meet its needs given a truly broad set of circumstances. The current “may” wording in the applicable statutes and regulations, I believe, is more beneficial than the adoption of a “must” standard. Mandating set asides on the Schedules program is not in the best interests of the Schedules program itself, or in the best interests of the many small firms that now succeed on the program.

New mandates that make the Schedules program more difficult to use by proscribing previously allowed actions will have the net impact of driving buyers away from use GSA Schedules. Today’s government contract landscape is highly competitive. The GSA Schedules program, while large and well-known, is by no means the only Indefinite Delivery/Indefinite Quantity (IDIQ) contract through which federal agencies purchase commercial services and products. Placing unique rules on the Schedules will drive buyers to other programs. Many of these programs have nowhere near the successful small business track record of the Schedules. Any mandate that hurts the Schedules program, therefore, will have a proportional, if not greater, negative impact on small businesses that today enjoy success.

It is imperative that the Small Business Administration, therefore, move cautiously during its current round of rule- making. Initiatives to ensure that businesses that call themselves “small” are actually small are very appropriate. The government should ensure that companies properly classify themselves as to business size. It is similarly important, however, to ensure that the government’s own systems have the flexibility and coordination to handle changes in size status that a company may have to report. The company can’t be blamed if the government’s systems do not allow for a consistent, transparent method to change size status. Anecdotal evidence suggests that current government registration systems may not always be up to this task.

Similarly, the SBA has a legitimate interest in ensuring that business awarded to a small firm is done by a small firm. “Store front” businesses take business away from legitimate small firms. Proper oversight, whether in this area or others, is always in best interests of those who want to maintain an effective government procurement system.

While it is always appropriate to look for ways to maximize small business participation, caution is needed to ensure that unintended consequences do not result in new rules that drive federal buyers away from the Schedules program and the small businesses that succeed on it. Since it has been only 7 months since the last SBA rule-making changed Schedule ordering rules, it may

be too early to again make changes in this same area. It may, for example, be a better use of the SBA's time to examine other government contracts that do not already exceed the government's small business contracting goal by 10%, as do the Schedules. The SBA is likely to find ample opportunity to increase small business use in these vehicles. Focusing on one program often creates the impression that there are issues only with that program. This is, as SBA mostly likely is aware, not the case here.

## **THE FEDERAL STRATEGIC SOURCING INITIATIVE FOR OFFICE SUPPLIES**

Today's hearing also covers the topic of GSA's Federal Strategic Sourcing Initiative (FSSI) for Office Supplies. I am well-acquainted with this procurement and the varying opinions surrounding it. I believe that an entire hearing could be held to discuss this procurement program. The harmonization of positive political and acquisition outcomes is often something difficult to achieve. Historically speaking, the GSA initiative is the only multi-agency strategic sourcing operation I have ever seen come as far as this one has.

My own hope is that GSA FSSI managers will exercise sound *business* judgment when setting the future course for this procurement. It must be a viable business contract for those who hold it, and opportunities must be presented for companies not on the program to join it at appropriate, regularly-scheduled intervals.

Like many of my colleagues, I await what happens next with anticipation.

## **PROPOSED GSA "DEMAND BASED" CHANGES**

GSA's own Schedule managers have recently proposed changes that could affect small business Schedule contract holders. Inside these "Demand Based" changes, are two proposals that are of potential concern to small businesses. One is a proposal to shut down Schedule contracts, or parts of Schedules known as Special Item Numbers (SIN's), to new offers for specific periods of time. The other is to move more swiftly to remove companies from the program that have not recorded any federal Schedule sales for a specified period of time. Each of these proposals should be evaluated for their possible impact on small business Schedule contract holders.

### Closing Schedules or SIN's

Until GSA temporarily closed Schedule 75 for Office Products in late 2010 and into 2011, the agency had not closed all or part of a Schedule for new offers since approximately 1991. For a period of nearly 20 years GSA accepted new offers and created new SIN's to meet the evolving needs of federal agencies and to recognize the consistent development of new technologies and solutions in industry. GSA leaders knew that it made no sense to close the door on a customer

who wanted to use a Schedule contract to obtain “today’s technology today”. Not serving that customer meant that the would-be buyer either had to start his own procurement from scratch, or look for another existing federal contract to meet his needs. Either of these approaches certainly took additional time and may well have resulted in increased costs for the government, due to the competitive nature of Schedule sales. GSA leaders understood that closing Schedules effectively meant that GSA as an agency was not fulfilling a key part of its overall mission.

Prior to 1991, GSA did have routine “open” and “closed” seasons during which no new offers were accepted. It is important to note, however, that the contract period of most Schedule contracts at that time was only 1 year, with only a few contracts lasting for 3 years. Today, a standard base Schedule contract is awarded for 5 years with three five year options. These short closures were implemented to assist GSA contracting personnel in better managing their contract workload and could be justified as the closure period was typically short and the Schedules program overall was only about \$3 billion in size.

When GSA made the decision to move to a perpetual “open season” it was an acknowledgement that the agency had to move forward and improve customer service if the Schedules program was to meet its core mission of assisting federal buyers in obtaining the latest commercial solutions at fair and reasonable prices. This change, coupled with new procurement laws such as the Federal Acquisition Streamlining Act, resulted in significant Schedules growth.

Today, the Schedules program finds itself in a highly competitive contracting arena. There are hundreds of smaller IDIQ contracts for information technology and some professional services. Some agencies speak openly about plans to set up their own Strategic Sourcing initiatives to bypass and augment GSA’s existing office supplies and print management vehicles. At least one federal agency has already developed plans to create its own Schedules program should GSA’s program no longer meet its needs.

Given these competitive pressures GSA should be looking for ways to ensure that the Schedules program remains open to new offers and innovations. Few commercial entities could thrive if they routinely closed off part of their stores to new items. Customers would simply go to the next available store and would be more likely to return to a reliable, open supplier than one that might not be able to offer the latest solution. The fact that many of these innovations also come from small firms would seem to be the icing on the cake for this approach.

The Multiple Award Schedule Advisory Panel, of which I was a member, did recommend that GSA periodically evaluate specific Schedules and SIN’s to ensure that the current structures met customer needs. If Schedules or SIN’s were obsolete, the agency should have the power to close or modify them as market conditions indicated. The intent of this recommendation was that

GSA leadership should ensure that the Schedules program continued to evolve to meet changing times so that it would remain a robust contracting program.

It should be noted, however, that this is not the main reason why GSA Schedule managers are considering temporary closures now. While some tweaking of the SIN structure may or may not take place, GSA's primary motivating factor behind the proposal to close parts of the program is that the agency is confronting a serious staffing shortage of qualified contracting professionals. At least one GSA Schedule office has publicly said that new offers may wait 12 months or more before an award could be considered. Other offices can take nearly as long to process new offers, or even modifications from existing contract holders.

These staffing issues are real and must be addressed by the agency, the Office of Personnel Management, and the relevant Congressional oversight committees. They should not, however, preclude GSA from continuing to meet its core mission of being the central buying agency for the federal government. The Department of Defense, for example, does not refuse to provide national security services when it faces difficult times. It rather ensures that priority operations areas receive priority attention, even if that means diverting resources from other areas.

The GSA Multiple Award Schedule program is the largest centralized commercial item acquisition contract in government. It is *the* vital program on which customers and contractors alike rely upon to get business done. GSA leaders should have the flexibility to bring resources from other parts of the agency to ensure that its marquis program continues to meet these important needs. Periodic closings should be a last option, not the first proposal out of the gate.

#### Cancelling Contracts That Have No Sales

GSA leaders estimate that a sizeable number of their 18,000 Schedule contract holders record no sales through their contracts. GSA rules state that a contractor must achieve at least \$25,000 in sales in the first one or two years it holds a contract in order for that contract to be maintained by the agency. GSA is also technically liable to pay each contractor that records zero sales \$2,500 as that is the minimum amount of business ascribed to a Schedule contract in the GSA solicitation document. In my 23 years of experience with the program, however, I have never seen any company request their \$2,500 from the agency. It is much more likely that the contractor would either succeed well beyond that amount, or that GSA would cancel the contract in question.

GSA does have the right to cancel contracts that consistently realize zero federal sales. Companies are told, in writing, that failure to achieve minimum federal Schedule sales can result in the termination of their federal contract. It takes time and resources to award each contract.

Subsequent modifications also require resources. GSA needs to be smart about how it matches its scarce personnel resources to its core mission of serving federal customers.

There are many potential reasons a company may obtain a Schedule contract, only to register zero sales through it over a period of years. Many companies obtained a Schedule contract because someone had told them that having a contract was required in order to do business with the government. Others obtained a Schedule contract to conduct one piece of business through it. Still other companies received contracts to make it easier for them to obtain state multiple award contracts, especially those administered by the states of Texas and California. Each of these is a likely scenario as to why so many businesses record no Schedule business. Some obviously require more time from GSA contracting officials after an initial award than others.

In the case of state contracts, small businesses, especially, have been advised by officials in several states to obtain a GSA Schedule contract in order to be on the fast track for a state award. Companies will, therefore, get a GSA contract with little or no intention of ever selling to the federal government. This provides a benefit to the small businesses, but poses a challenge to GSA.

While there may be different estimates of the cost to GSA of managing these contracts, it is undeniable that awarding a GSA Schedule contract to a firm that has no intention of ever selling to the federal government does divert resources away from the award or modification of a contract that is intended primarily for federal use. Even a company that sells primarily to a state customer must ensure that its underlying Schedule contract is periodically modified so that, in turn, its state contract stays fresh.

Although unintended, GSA must now deal with the reality of essentially being the auxiliary arm of some state government acquisition organizations. Businesses were told by an important customer of theirs to obtain a Schedule contract. They followed those rules and many are now achieving good state and local government business because of this. Terminating the underlying federal contract should not be done haphazardly and put small firms at risk. GSA at the same time, however, must be allowed to recover its costs if it is to continue to essentially subsidize the work of state agencies.

GSA recovers a .75% Industrial Funding Fee on every Schedule transaction. Collected like a sales tax, the IFF allows GSA to fund the operation of the Schedules program, as well as offset the costs of other GSA activities. Because of this, GSA's Federal Acquisition Service does not have to ask Congress for direct appropriations to cover the costs of these operations.

GSA should examine, and Congress should support if necessary, the right of the agency to collect the IFF from states that use "look-alike" contracts based on the federal Schedule.



Programs such as the TEXMAS contracts in Texas and California's CMAS are easily identifiable as programs set up to essentially mirror the federal Schedule program. Extending the ability for GSA to reach out to those states already well known for relying on its work to collect a fee for that work would allow GSA to recover costs it is already incurring and also allow the agency to continue to service the contracts of those who have obtained contracts primarily to serve non-federal customers.

Such a program could work much like the IFF already works now. Each federal Schedule price already includes the IFF in it. The federal government customer, not the contractor, actually pays the IFF, though it is the contractor who collects and remits it on a quarterly basis to GSA. Extending this program to state piggyback contracts could be done with little or no impact to the contractor. The contractor, who has a federal Schedule as the basis of its TEXMAS, would collect and remit the IFF on a TEXMAS sale, for example, just as it would if it were selling to the Department of Agriculture. Each quarter, the contractor would remit the collected IFF along with a report of its TEXMAS sales. This is consistent with the reporting requirements already expected of a Schedule contract holder for federal sales.

This approach would allow GSA to collect a fee for services it is already providing to state governments. It would allow the agency to hire and train additional contracting professionals to ease the burden on backlogs that exist throughout the system and possibly alleviate the need to close Schedules or SIN's due to personnel shortages. It will result in the saving of hundreds, if not thousands, of small business Schedule contracts and ensure that those contracts the agency does cancel are those only through which no public sector entity makes a purchase.

## **CONCLUSION**

Mr. Chairman and Madam Ranking Member, I am a strong supporter of GSA and its Multiple Award Schedules program. I believe that the program fulfills an important need in the federal acquisition system. I believe that the agency has an effective Schedules management team in place. While we may occasionally differ on specific initiatives, I believe that today's management team generally wants to move the Schedules program forward to make it the very best contracting program in government. It is a program that already has a great small business success story to tell. With a little tweaking, the program's success, and that of its small business partners, will only get better over time.

I appreciate this opportunity to testify this morning and look forward to your questions.