

21



22

## **The GSA Schedules:**

### **How to "Get on Schedule" and Broaden Your Business**

An overview of the Schedule contracting process for commercial businesses, including best practices and common pitfalls.

BY DISMAS N. LOCARIA  
AND JOHN G. WILLIAMS



**The U.S. General Services Administration (GSA) offers and manages a diverse one-stop contracting shop that brings the U.S. federal government's various agencies and their thousands of procurement personnel together with more than 11,000 commercial contractors.**

These GSA contracts are often referred to as "Schedule" contracts, but are also known as "Multiple Award Schedule" or "Federal Supply Schedule" contracts (hereinafter "Schedule contracts"). Schedule contracts are indefinite delivery/indefinite quantity, multiple award type contracts, meaning they provide for an indeterminate number of orders and can be awarded to multiple contractors at once.

GSA offers over three dozen Schedule contracts, which it groups by product and service type. For instance, Schedule 70 ("Information Technology") handles IT products and services ranging from computer equipment to integrated software solutions. There are also Schedule contracts for financial and business services and solutions, various professional services, vehicle purchases and leases, hardware and build-

ing supplies, warehousing and logistical products and services, and many more.

The purpose behind GSA's Schedules program is to harness the competitive pricing practices of the commercial marketplace for the economic benefit of the federal government. From the perspective of commercial businesses, Schedule contracts provide an opportunity for firms with little or no traditional government contracting experience to expand their business and reap the rewards of federal contracting.<sup>1</sup>

### How GSA Schedules Work

Through the GSA Schedules program, GSA establishes long-term, governmentwide contracts with commercial firms to provide federal agencies access to over 11 million commercial products and services. However, the receipt of a Schedule contract does not automatically obligate federal dollars or require the contractor to perform a service or provide a product. Rather, these contracts operate as a type of preapproval, whereby the contractor agrees to standard terms and conditions, which include a "not-to-exceed" pricing arrangement upon which federal agencies' procurement personnel can issue purchase or task orders against.

For the most part, companies contemplating federal contracting are able to meet the majority of requirements without much consternation. However, two of the most basic requirements for obtaining a Schedule contract include: 1) being eligible to contract with the federal government (i.e., not being suspended or debarred); and 2) having provided or performed the products and services for a minimum of three years.

Federal procurement personnel have numerous incentives for using Schedule contracts. One of the primary benefits is the simplified competition requirements that accompany the process. Generally, federal law requires agencies to adhere to a number of competition requirements; any one of which could serve as a suitable protest ground if not properly followed.<sup>2</sup>

GSA Schedule contracts, however, have

simplified competition requirements that generally require the agency to review the pricing of three Schedule contractors and then make a "best value" determination.<sup>3</sup> Once deciding on a contractor, the federal agency's contracting officer will issue a purchase or task order, obligating federal dollars and requiring performance.

### Getting On Schedule

#### Selecting the Schedule that's Right for You

To receive a Schedule contract (a.k.a., "getting on Schedule"), firms must first meet the minimum requirements and complete a standard solicitation for the Schedule contract that is appropriate for their business. As explained above, GSA offers numerous Schedule contracts for various industries. The selection of the most appropriate solicitation can be especially important since many firms have products and services that may fit under various Schedule contracts.

To make this determination, interested parties should consult the various Schedule contract solicitations and review the special item numbers (SINs) listed within each solicitation.<sup>4</sup> The SINs describe the particular products and/or services that are allowed under a specific Schedule contract.

In some cases, firms may find that their offerings fall under more than one Schedule contract. In these cases, because there is no prohibition on how many Schedule contracts a contractor can hold, these firms may elect to submit multiple solicitations.<sup>5</sup> The trick to selecting the appropriate solicitation, however, is determining which Schedule contract best suits your offerings and makes the most business sense. When making this ultimate determination, some things to consider include:

- With which products and services do you wish to expand your market?
- With which federal agencies do you already have strong relationships?
- Do those products and services have



# EVERYBODY WINS WHEN THE PROCUREMENT PROCESS IS CLEAR

The American Recovery and Reinvestment Act has added millions of dollars to state budgets. Knowing the ins and outs of the government procurement process improves your ability to negotiate, manage, and secure the growing number of state contracts being awarded.

West can help, with state publications that:

- Detail every step of the contracting process
- Help ensure presentations meet strict bid requirements
- Compile state-specific statutes, regulations, caselaw, forms, and agency websites into one convenient source

#### TOP TITLES INCLUDE

- Florida State Procurement Handbook
- Pennsylvania Government Contract Handbook
- Georgia State Procurement
- Colorado Procurement Handbook

For information on titles that bring clarity to the procurement process, or to order, call **1-800-238-5775** or visit **west.thomson.com** and enter OFFER CODE 626860.



**WEST®**

a market within the agencies that you have an existing relationship with, as well as with the federal government at large?

- Do you intend to expand your relationships within the federal government? If so, with which agencies and how will your intended Schedule contract offerings complement that goal?
- What are your intended marketing efforts after you "get on Schedule"?

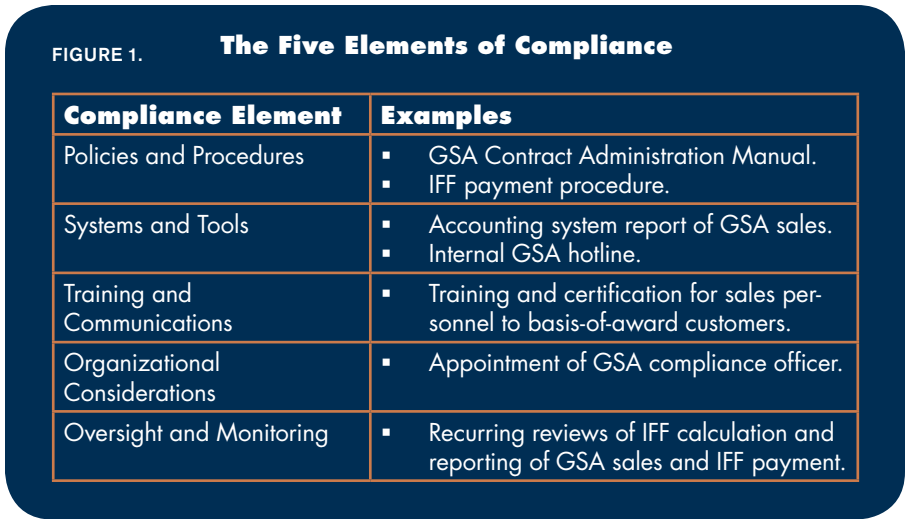
After answering these questions, an interested party should be able to decide which products and services it wants to get on Schedule and the Schedule(s) that make the most sense.

### Meeting the Terms of Your Solicitation

After selecting a solicitation, it is imperative for interested parties to review the solicitation in its entirety. Although significantly less burdensome than typical federal contracts, GSA Schedule contract solicitations afford federal agencies the ability to impose environmental and socioeconomic laws and regulations. While a company may already have some of these areas well in-hand, other areas may take considerably more effort to implement and maintain.

One area that proves especially onerous to the private sector involves socioeconomic requirements, especially those relating to an organization's employment practices. All Schedule contract holders are subject to Executive Order (EO) 11246, the Vocational Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, which impose nondiscrimination and affirmative action obligations on the vast majority of federal contractors and subcontractors with respect to their employment of women, minorities, individuals with disabilities, and certain veterans.

By far the most burdensome requirement imposed by these authorities is the obligation under EO 11246 to develop a written affirmative action plan (AAP), which must encompass all employees in a contractor's



workforce, regardless of whether every employee is engaged in work on a government contract. Generally, those federal contractors and subcontractors with 50 or more employees and contracts exceeding \$50,000 are subject to AAP obligations.

Some additional regulations and provisions that are standard in all Schedule contract solicitations, and which offerors should be particularly mindful of if applicable to their industry, include:

- The Trade Agreements Act<sup>6</sup>;
- The Berry Amendment<sup>7</sup>;
- The Service Contract Act<sup>8</sup>;
- The price reduction clause<sup>9</sup>; and
- The requirement to create a small business subcontracting plan.<sup>10</sup>

### Creating Your Proposal

Schedule contract solicitations require, at a minimum:

- Administrative information,
- A past performance report,
- A small business subcontracting plan (if applicable), and
- A price proposal.

The administrative information generally requires interested firms to provide various pieces of company information, such as tax identification numbers, points of contact, payment remittance addresses, etc.

The firm will also be required to make various certifications relating to:

- Its size;
- Suspension and debarment status;
- Criminal conviction history;
- The origin of the products (if any) it intends to offer; and
- A certificate showing that at least one of its current employees, who is listed as an "authorized negotiator" for the solicitation, has completed GSA's "Pathway to Success" training program.<sup>11</sup>

The past performance report typically requires the firm to provide information on current or former customers/clients and their contact information. The firm must then submit the information and a fee to Open Ratings, Inc., who will contact the customer references and assemble a past performance report that rates various factors such as reliability, order accuracy, timeliness, customer support, and the adequacy of your personnel.

Federal law requires the government to maximize opportunities for small businesses in federal contracting.<sup>12</sup> As a result, the government sets annual contracting goals for a variety of small business types.<sup>13</sup> In turn, Schedule contract solicitations require small business subcontracting plans of all offerors that are "other than small."<sup>14</sup> In these plans, the offeror must set forth small business subcontracting goals, which are then reviewed and must be approved by a U.S. Small Business Administration (SBA) representative. If approved and successful in obtaining a Schedule contract, the contractor must then make and be able to demonstrate its good-faith efforts toward reaching these goals.

The final component required of all Schedule contract proposals, and typically the most significant concern for most offerors, is the price proposal. With regard to pricing, Schedule contract solicitations require offerors to disclose their discount policies and provide federal agencies with fair and reasonable pricing.<sup>15</sup> "Fair and reasonable" pricing is interpreted by GSA as requiring "most favored" pricing.<sup>16</sup> In other words, the GSA contracting officer will request the offeror to provide federal customers the same pricing and benefits, if not better, than those offered to its most favored customers under similar terms and conditions.

Notwithstanding this expectation by GSA, offerors can justify that although particular customers receive certain discounts, the government may not be entitled to such discounts because it is not similarly situated.<sup>17</sup> This in turn creates some room for negotiation between GSA and the offeror. At the end of the day, however, GSA will require any Schedule contract pricing to be linked to a customer or category of customers. This is referred to as the "basis of award."

Determining an appropriate basis of award customer is important because this relationship will control the Schedule contract pricing throughout the life of the contract. For instance, changes in the prices and discounts offered to the basis of award customer(s) will require a corresponding change in the Schedule contract prices.<sup>18</sup>

While there are some exceptions to this price reduction obligation, because a slight change with one customer on an item could have such an enormous impact on the firm's governmentwide sales, settling on a basis of award customer or category of customers is always a major point of concern.<sup>19</sup>

Depending on the nature of the products and services offered by the particular solicitation, some solicitations also require a "technical proposal," which is generally comprised of four parts:

- Corporate experience,
- Project experience,
- Past performance, and
- Quality control.

For the corporate experience portion, firms must submit a narrative that describes the company's:

- Experience;
- Size;
- Ability and expertise in fulfilling requirements;
- Information on its organizational and accounting controls;
- A description of its plans to market to

federal customers; and

- A discussion (if applicable) regarding its intended use of subcontractors, including the provision of letters of commitment from such subcontractors.

The project experience portion also requires a narrative that seeks detailed descriptions of the offeror's specific experience with projects similar to those the firm is offering in its proposal. Under some Schedule solicitations, if project experience does not exist within the offeror's organization, the offeror can substitute the experience of predecessor companies or key personnel.

For the past performance portion, offeror's are typically required to use the Open Ratings, Inc., evaluation process previously described. Open Ratings, Inc., will contact your customer references and assemble a past performance report.

The final portion, quality control, requires a third narrative to address the offeror's procedures to ensure that it has sufficient standards for quality, including those that:

- Govern the work of subcontractors and work performed on an expedited basis,
- Identify those responsible for overseeing quality control,
- Explain how problem areas are handled, and

**The trick to selecting the appropriate solicitation, however, is determining which Schedule contract best suits your offerings and makes the most business sense.**



- Identify strategies for simultaneously managing and completing multiple projects for multiple agencies.

After completing the solicitation, the offeror can file its proposal with GSA. Following the submission of a proposal, GSA advises prospective contractors who have never held a Schedule contract to expect an approximate six-month period for review, negotiation, and processing before a final determination is made on the proposal and a contract is awarded. In many cases, it may take the typical six months; however, practitioners experienced in such matters can sometimes cut this time in half.

### Negotiating Your Proposal

Upon submission, GSA will review the proposal and conduct negotiations with the offeror to reach final terms. Often, the terms most at issue relate to pricing and other service-value aspects of a proposal. It is the goal of GSA's contracting officers to negotiate on behalf of the government. While contracting officers differ in their negotiation styles, they generally take their responsibilities seriously and seek the best deal they can obtain for the government.

Although having the purchasing power of the federal government as a customer is enticing, it is important to remember that

the terms of a Schedule contract can have a significant impact on a firm's entire business if not entered into thoughtfully and with regard to its other customers. Therefore, as tempting as it may be to finalize a deal with the federal government as soon as possible, it is important to make sure the final terms make sound business sense.

### Common Schedule Contract Risks

Schedule contracts are based on the government's expectation of being a most favored customer, acquiring products or services at a fair and reasonable price under favorable terms and conditions. While Schedule contracts are based on commercial item pricing and terms and conditions, there are important administrative and compliance requirements that must be considered.

If not properly administered, Schedule contracts can result in the contractor losing its Schedule contract and being faced with severe financial penalties and protracted litigation. Acknowledging and addressing these differences up front can mitigate post-award contract risks. Toward this end, companies should consider the following areas when becoming Schedule contract holders:

- Preaward:

- Ensuring proper construction of your proposal and disclosures, and
- Ensuring sales conform to Schedule scope and use of open market items.
- Post Award:
  - Managing your small business subcontracting plan,
  - Complying with the price reductions clause,
  - Monitoring compliance with the Trade Agreements Act,
  - Ensuring employees are qualified for Schedule labor categories,
  - Calculating and remitting the "industrial funding fee" in a timely manner, and
  - Understanding GSA's audit rights and record retention requirements.

### Proper Construction of Your Proposal and Disclosures

Unfortunately, numerous Schedule contractors are awarded Schedule contracts that



**While contracting officers differ in their negotiation styles, they generally take their responsibilities seriously and seek the best deal they can obtain for the government.**

were hurriedly prepared due to poorly conceived and undisclosed pricing assumptions. It is critical to take the time to prepare a tightly crafted Schedule contract proposal and internal company program where your offering(s), disclosures, terms and conditions, contract administration responsibilities, and compliance considerations are thoroughly considered *before* award. The extra time and attention spent during the preaward period will prove to be invaluable in avoiding compliance headaches during the post-award period.

### Ensure Sales Conform to GSA Schedule Scope and Use of Open Market Items

As an outcome of several incidents in 2002 and 2003, where the government misused GSA IT contracts to buy out-of-scope interrogation services, GSA and the U.S. Department of Defense established the "Get it Right" program in 2004 to ensure that GSA contracting officers and agencies buying off GSA contracts follow procurement rules.

While the primary responsibility remains with the agency to "get it right," contractors must notify the contracting officer when a sale is out of scope.

The "Get it Right" initiative was also established to address several other issues, including the improper sale of open market items.<sup>20</sup> Ultimately, knowingly selling out of scope could result in termination for default, as well as suspension or debarment. Contractors should also be aware of the particular situations where regulations allow the use of open market items<sup>21</sup> and develop business processes to minimize compliance risk.

### Managing Your Small Business Subcontracting Plan

Schedule contracts assume that large business contractors are serious about their small business subcontracting plans and goals. The government accepts these plans as an integral part of an awarded contract. Schedule contracts require periodic report-

ing by the contractor on its progress against the small business subcontracting plan.<sup>22</sup> If contractors do not meet their goals, they should be prepared to explain why and what they will do to improve. Failure to execute the small business subcontracting plan and meet stated goals—or at a minimum, to make a good-faith showing to meet the plan—can result in the loss of a Schedule contract and being assessed liquidated damages.

### Complying with the Price Reductions Clause

The government expects to be offered the same price reductions and changes in terms and conditions as are offered to a contractor's basis of award customer(s). The requirement is for the contractor to report said price reductions within 15 calendar days of the price reduction.<sup>23</sup> While this may sound fairly straightforward, the *GSA Acquisition Regulation's* (GSAR) price reductions clause<sup>24</sup> has proven to be one of the most troublesome clauses for Schedule contractors.

**Boost your productivity**

**Consulting**  
Subject matter expertise & training

**Software**  
Efficient tools make your job easier

**Staffing**  
Acquisition professionals short or long term

**Facilities**  
Secure space for source selection, industry days

**Professional services from BVTI can help streamline your acquisitions process**

**BVTI** Acquisition management  
IT integration  
Secure environments  
Best Value Technology Inc

703.229.4200 • www.bvti.com • info@bvti.com



Compliance issues frequently arise due to poorly crafted pricing and discounting disclosures during the proposal/negotiation stage and/or the contractor's failure to sufficiently monitor the sales force responsible for the basis of award customer(s).<sup>25</sup> Violations of the price reductions clause can result in the loss of your Schedule contract, debarment, prosecutions under the False Claims Act, and *qui tam*-related litigation.<sup>26</sup>

### Monitoring Compliance with the Trade Agreements Act

The Trade Agreements Act (TAA)<sup>27</sup> is imposed upon Schedule contractors in two manners: 1) through a solicitation certification; and 2) through the inclusion of *Federal Acquisition Regulation (FAR)* 52.225-6. The TAA has proven troublesome, particularly to contractors providing products under their Schedule contracts.

Compliance with the TAA is based on the concept of "substantial transformation" in the United States or another "designated country."<sup>28</sup> Failure to monitor compliance with the TAA could result in a protest of the award, the loss of your Schedule contract, debarment, and/or False Claims Act and *qui tam* litigation.

### Ensuring Employees are Qualified for Schedule Labor Categories

Another frequent problem area occurs when Schedule contractors fail to ensure that employees staffed on GSA task orders meet the specific qualifications listed in their Schedule contract. Contractors need to be aware of the wide variances between labor categories in Schedules contracts (e.g., Schedule 70 [Information Technology] vs. Schedule 874 [MOBIS]).

In addition, Schedule contractors frequently rely on outdated résumés and do not perform the due diligence to verify that employees meet the specified qualifications. Schedule contractors should implement business processes that will ensure they can correctly and consistently map employees to their appropriate Schedule labor category.

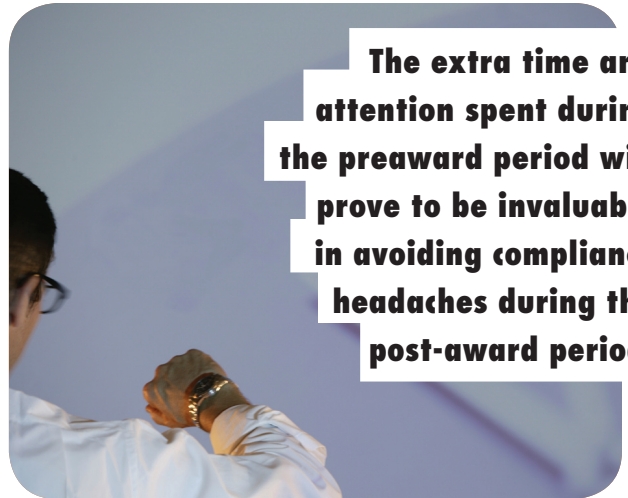
### Calculating and Remitting the "Industrial Funding Fee" in a Timely Manner

The Schedule contract program was established to be self-funded, and the "industrial funding fee" (IFF) provides a vast majority of its revenue. The payment of the IFF is a baseline GSA contract requirement, which requires schedule holders to remit 0.75 percent of quarterly Schedule contract sales within 30 days after the end of each quarterly reporting period.<sup>29</sup> The failure to do so can result in poor GSA performance (i.e., "GSA Schedule Report Card") ratings. A history of poor GSA Schedule Report Card ratings could preclude a contractor from being considered for Schedule renewal.

Additionally, failure to remit the full amount of the IFF within 30 calendar days after the end of the applicable reporting period constitutes a contract debt to the government under the terms of FAR 32.6.<sup>30</sup> Ultimately, should the contractor fail to submit the required sales reports, falsify them, or fail to timely pay the IFF, there will be sufficient cause for the government to terminate the Schedule contract for cause.

### Understanding GSA's Audit Rights and Record Retention Requirements

Some aspects of Schedule contracting are not frequently encountered in the commercial marketplace, and audit rights in a Schedule contract are a perfect example. The *FAR* and the *GSAR* establish broad rights "for the contracting officer or authorized representatives to examine books, records, documents, papers, and other directly pertinent records to verify the pricing, sales, and other data in order to determine the reasonableness of price(s)."<sup>31</sup> It is critically important to note that these clauses not only establish GSA's rights to access records *prior* to award, but also reach back from the date of award up to three years after



final payment on the contract. The GSA inspectors general auditors and industrial operations analysts fully understand the rights afforded to them by these clauses when performing customer assistance visits, as well as pre- and post-award audits. As a result, it is critical for contractors to be well organized and prepared for these audits.

### The Need for an Effective Compliance Program

A common rule of thumb is that costs expended to prevent a problem are a fraction of the costs required to fix a problem after the fact. Recent *FAR* legislation and U.S. Sentencing Guidelines show that the government increasingly expects contractors to implement formal compliance programs.<sup>32</sup> In light of the compliance risks and the government's audit rights noted above, it is prudent for contractors to ensure they have a GSA Schedule contract compliance plan in place concurrent with the award of the contract. The critical question then becomes, how robust of a program should the contractor have in place to address these requirements?

An effective GSA compliance program is composed of five elements, as illustrated in **FIGURE 1** on page 34. All elements need to be considered together when addressing each of the contractor's areas of compliance risk.

## Conclusion

The GSA Schedules program affords federal agencies with the benefits of shorter lead times, lower administrative costs, and reduced inventories while promoting compliance with various environmental and socioeconomic laws and regulations. In fact, because of these benefits, Schedule contracts have become the preferred method for the procurement of commercial products and services by federal agencies. Not coincidentally, because of the popularity of Schedule contracts to federal agencies, they have become equally popular with industry. Schedule contracts provide a low-cost, relatively simple path toward expanding business into the public sector. As a result, there are currently over 11,000 businesses with Schedule contracts.

Notwithstanding the tremendous benefits to both the government and the private sector, contractors should remain mindful of certain regulations and requirements. After all, getting on Schedule is a big step for a contractor in establishing itself in the government marketplace.

Contractors also need to be fully aware of critical GSA compliance risks and considerations that need to be addressed in the pre- and post-award phases. Taking the time to craft a well-thought-out proposal backed by an effectively tailored GSA compliance program is critical. A contractor's compliance program should be tailored to address the specific requirements of its Schedule contract. The remaining challenge is to balance the need for an effective compliance program and infrastructure to manage GSA compliance risks while doing so in a cost-effective manner. **CM**

### ABOUT THE AUTHORS

**DISMAS N. LOCARIA, ESQ.**, is an associate in the Government Contracts group of the Washington, D.C., office of Venable, LLP ([www.venable.com](http://www.venable.com)).

**JOHN G. WILLIAMS, CPA, PMP**, is a director in the Government Contractor Services Practice of the Vienna, Virginia, office of

Navigant Consulting ([www.navigantconsulting.com](http://www.navigantconsulting.com)).

**Send comments about this article to [cm@ncmahq.org](mailto:cm@ncmahq.org). To discuss this article online, go to [www.ncmahq.org/cm1209/Locaria](http://www.ncmahq.org/cm1209/Locaria) and click on "Join Discussion."**

### ENDNOTES

- For instance, in recent months, due to the unprecedented mortgage crisis resulting in the public ownership of numerous real estate properties, numerous asset managers, which have not been traditional government contractors, have explored the Schedules program in order to expand their business. See [www.venable.com/files/Publication/6db353c2-62ad-49a9-92a5-5f649a798218/Presentation/PublicationAttachment/4c96f0a3-98f7-424b-822f-73eda7aea7f0/GVC\\_Update\\_-\\_Revised\\_May\\_Update.pdf](http://www.venable.com/files/Publication/6db353c2-62ad-49a9-92a5-5f649a798218/Presentation/PublicationAttachment/4c96f0a3-98f7-424b-822f-73eda7aea7f0/GVC_Update_-_Revised_May_Update.pdf).
- See 48 Code of Federal Regulations (C.F.R.) Part 6.
- See 48 C.F.R. 8.405-1. For services that are priced at hourly rates, the ordering agency will create a statement of work (SOW), issue a request for quotations—which includes the SOW—to at least three eligible schedule contractors, and request firm-fixed prices (*ibid.* at 8.405-2). Even in these instances, these competition requirements are more simplistic than those typically required by federal law. (Compare *ibid.* at 8.405-2 with 48 C.F.R. Part 6.)
- The various GSA Schedule contract solicitations can be found on GSA's Web site at [www.gsa.gov](http://www.gsa.gov).
- Although firms can have multiple Schedule contracts, the same product or service cannot be offered on multiple Schedule contracts.
- 19 U.S.C. 2501, *et seq.*; see also 48 C.F.R. 25.4 (implementing regulations).
- 10 U.S.C. 2533a, *et seq.* The Berry Amendment only applies to acquisitions by the U.S. Department of Defense.
- 41 U.S.C. 351, *et seq.*; see also 48 C.F.R. 22.10 (implementing regulations).
- GSA Acquisition Regulation (GSAR) 552.238-75, "Price Reductions" (May 2004).
- 48 C.F.R. 52.219-9.
- "Pathway to Success" is available through GSA's Vendor Support Center Web site, [http://web-cast.gsa.gov/login.asp?lib=pn100381\\_gsa\\_pathways](http://web-cast.gsa.gov/login.asp?lib=pn100381_gsa_pathways).
- See Small Business Act, 15 U.S.C. 631, *et seq.*
- ibid.* Business types include: small, HUBZone, small disadvantaged, women-owned, veteran-owned, and service-disabled veteran-owned businesses.
- The Small Business Act defines a *small business* as a for-profit entity with its place of business in the United States that operates primarily within the United States or makes a significant contribution to the U.S. economy; is independently owned and operated; and is not dominant in its field on a national basis. Small business size standards are provided at 13 C.F.R. Part 121; the Small Business Administration's (SBA) size regulations are found at 48 C.F.R. Part 19. SBA has also established a "Table of Small Business Size Standards" (available at [www.sba.gov/idc/groups/public/documents/sba\\_homepage/serv\\_sstd\\_tablepdf.pdf](http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf)) that are stated in number of employees or average annual receipts.
- 48 C.F.R. 8.404(d).
- See GSA Acquisition Manual (GSAM) 538.270.
- Ibid.*
- See GSAR 552.238.
- There is currently some discussion relating to the removal of the price reduction clause, among other changes to the Schedule contract program. This stems from a meeting held on June 26, 2009, with respect to a draft final report made by the 16-member Multiple Award Schedules Advisory Panel. The final report was to be released in August or September 2009, and was anticipated to include a call for an end to the price reduction clause and to implement a more competitive approach to ensure fair and reasonable pricing. When the final report is approved it will be found at [www.gsa.gov/masadvisorypanel](http://www.gsa.gov/masadvisorypanel).
- Open market items* are also known as incidental items, noncontract items, non-Schedule items, and items generally not on a GSA Schedule contract. GSA Schedules items are based on fair and reasonable pricing; thus, contractors should ensure that, where applicable and required, open market item prices are fair and reasonable.
- See 48 C.F.R. 8.402(f).
- Typically, this reporting is required annually via Standard Form 294/295.
- GSAR 552.238-75.
- Ibid.*
- Ibid.* However, sales outside the basis of customer class, sales to the federal government, and sales in excess of the stated "Maximum Order Limitation" do not trigger the price reductions clause.
- There are currently discussions that could result in the elimination of the price reductions clause. See note 19.
- 19 U.S.C. 2501, *et seq.*
- 48 C.F.R. 25.003.
- GSAR 552.238-74.
- See also FAR 52.232-17, "Interest."
- See 48 C.F.R. 52.215-20; and GSAR 552.215-71.
- See 48 C.F.R. 52.203-13 (requiring government contractors to implement a code of conduct and business ethics).