

Published on *The National Law Review* (<http://www.natlawreview.com>)

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# As GSA Federal Acquisition Service (FAS) Struggles To Reinvent Itself; Contractors Suffer

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The last year has been a tough one for the *GSA Multiple Award Schedules* (“MAS”) program. The *Federal Acquisition Service* (“FAS”) – the agency charged with administering the MAS program – has struggled to re-invent itself and its contracting vehicles in order to ensure they both stay relevant in an increasingly competitive federal marketplace. The byproduct of this struggle has been mostly negative for Schedule vendors.

In an effort to demonstrate the value its contracts bring to federal customers, FAS has pursued an unrelenting crusade aimed at reducing prices at all costs. It is no longer enough for a vendor to give the Government a great deal vis-à-vis its commercial customers (a determination historically made through a “vertical pricing” analysis). Now vendors also must charge less than their competitors – a determination made through a “horizontal pricing” analysis. While FAS contracting officers are supposed to consider factors that may explain a price differential as part of their price evaluation, in practice, COs pay little heed to such “trifles.” The concept of value rarely enters into the equation any more.

Time and again, vendors are told to lower prices or remove products from their Schedule because another vendor offers the same product at a lower price. So what that that other vendor offers no customer service, no phone support, no warranty, and is run by two guys out of a garage in Glenwood. Price is king, and that’s all FAS seems to care about nowadays. (We mean no disrespect to the good people of Glenwood by the way. We just couldn’t resist the alliteration.)

This price infatuation, of course, comes with a cost. That cost is value. While we concede we like lower prices as much as the next guy (unless that next guy is Jonathan’s dad who absolutely loves lower prices), we also appreciate value. There is a reason not everyone flies Spirit Airlines, stays at an Econolodge, parks at the off-off-off airport lot, or buys their computers from a no-name Internet site. It’s because, while price is important, it is not the be-all/end-all of every purchasing decision. In short, value matters.

But FAS seems to ignore that distinction at every turn. As a result, vendors who offer greater value get punished, while those who focus only on price (often at the expense of value) get rewarded.

Why is FAS so price-focused, you ask? Won’t the market solve FAS’s concerns? Of course it will; even more so now that GSA has imposed additional obligations upon federal purchasers to ensure a greater level of competition at the order level. If a vendor is not offering adequate value, it will not make sales. And if it does not make sales, it will have to reduce its prices. In short, the market naturally will do precisely what FAS is trying to do artificially – just without the unintended consequences. But it seems FAS would rather tinker than let the market do its job.

FAS, of course, is not the only group worthy of blame in this new price- über-alles environment. The Office of Inspector General (“OIG”) has been enlisted in FAS’s mission as an all-too-willing co-

conspirator. While the OIG's auditors always have helped COs evaluate fair and reasonable pricing (which we recognize is part of their job), auditors lately have been playing a more hands-on role. Indeed, it is not uncommon to see OIG auditors intimately involved in negotiating contract pricing, a task far more suitable for a CO. And make no mistake about it, an auditor's "advice" carries a lot of weight with a CO – especially after the OIG's recent report taking FAS COs to task for not adequately accepting and implementing OIG audit recommendations.

FAS's infatuation with price can be seen in other contexts as well. A recently unveiled "pilot program," for example, now imposes upon select Schedule vendors the obligation of tracking and reporting "prices paid" data from federal sales regardless of contract vehicle. Promoted as a means to provide additional market data to prospective federal purchasers, and, thus, to drive down prices further, the new rule imposes a significant administrative burden on Schedule vendors to do work the Government apparently is unwilling to do (or incapable of doing) itself – *i.e.*, tracking and aggregating its purchasing data. This new burden, of course, will translate, one way or another, into higher prices overall, as does every new compliance obligation. Contract administration costs money, and contractors cannot – and should not be expected to – perform these extra services for free.

On the topic of contract administration, incidentally, FAS's focus on price has not in any way correlated to a reduction in burden upon MAS vendors or COs. In other words, life has not gotten any easier for anyone. The MAS program continues to be infused with countless complicated forms, certifications, and regulations, many of which continue unfairly (and, admittedly, sometimes fairly) to snare unwary contractors.

While FAS struggles for continued relevance, and while contracting officers struggle to reduce prices, the MAS program continues to provide opportunity for commercial items vendors who understand the Program and are willing to do the work needed to avoid its pitfalls. We can't deny the potential revenue stream the MAS program represents. Nor are we blind to the doors the MAS program sometimes opens beyond the federal government itself, including, in some cases, state, local, and even commercial opportunities. The key, of course, is, as it always has been, figuring out how to navigate GSA's regulatory maze to get to the cheese.

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