

GSA Issues Final Rule to Allow ‘Order-Level Materials’ on Schedule Orders

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Under the US General Services Administration’s final rule, agencies may add nonschedule Order-Level Materials of up to one-third of the order value acquired in direct support of an individual task or delivery order. The rule also aims to give agencies flexibility in purchasing OLMs under the Federal Supply Schedule program.

The US General Services Administration (GSA) issued a final rule on January 24 to authorize agencies to acquire Order-Level Materials (OLMs) when placing an individual task or delivery order against a Federal Supply Schedule (FSS) contract or FSS blanket purchase agreement (BPA). OLMs are supplies or services that are not anticipated at the time of the underlying FSS contract or FSS BPA award but are necessary and in direct support of delivery of the product or service to the government under a particular order. The final rule makes clear that OLMs are not open-market items purchased under Federal Acquisition Regulation (FAR) Subpart 8.4. Instead, OLMs may be added to an order under procedures established by a new General Services Administration Acquisition Regulation (GSAR) provision, 552.238-82. GSA will publish a list of schedules that are authorized to allow for OLMs on its [ordering guidelines webpage](#).¹

Background

GSA’s FSS program provides agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. However, the FSS program historically did not allow agencies to include OLMs in task orders or delivery orders placed against an FSS contract or BPA. Instead, OLMs had to be acquired through task orders under other multiple-award contracts or governmentwide acquisition contracts, meaning that each time an agency placed an order against an FSS contract that required associated OLMs, the agency was forced to make two separate procurements. The final rule aims to create parity between the FSS program and other commercial item indefinite-delivery, indefinite-quantity (IDIQ) contracts, which allow agencies the flexibility to easily purchase OLMs.

Restrictions on OLM Purchases Under the FSS Program

The final rule includes some limitations on the acquisition of OLMs under the FSS program that are not present in the acquisition of OLMs under other IDIQ contracts. With the exception of travel OLMs, FSS contractors proposing OLMs must obtain three quotes for each OLM above the simplified acquisition threshold (currently \$150,000) in order for the ordering activity contracting officer to determine that the OLM prices are fair and reasonable.² FSS contractors with approved purchasing systems per FAR Subpart 44.3 are exempt from the three-quote requirement.

Additionally, the total value of OLMs in an individual task or delivery order awarded under an FSS contract or FSS BPA may not exceed 33.33% (one-third) of the total value of the individual task or delivery order. However, travel OLMs, which are governed by FAR Subpart 31.205-46, are exempt from this requirement and are not included in determining whether the one-third limitation has been met.

Finally, the final rule requires payment of the industrial funding fee on OLMs (other than travel costs), and that OLMs other than travel costs be reported in accordance with GSAR Clause 552.238-74, Industrial Funding Fee and Sales Reporting. However, the final rule provides that OLMs are exempt from commercial sales practice (CSP) disclosures and price reductions clause (PRC) requirements.

Key Takeaways

Contractors holding GSA FSS schedules that are authorized to allow OLMs will receive bilateral modifications from GSA adding the OLM Special Item Numbers (SINs) to their GSA contracts. Contractors who accept this modification should ensure that they have policies and procedures in place to comply with both the three-quote requirement and the OLM limitation of one-third of the total order value.

While the final rule does not achieve complete parity with other commercial IDIQs, the ability to purchase OLMs under the FSS program is a welcome change for FSS contractors. The change will reduce administrative costs and inefficiencies for FSS contractors and agencies alike by eliminating the need for additional contracts for ancillary work.

1. The proposed rule indicated GSA's intent to apply the OLM authorization to the following schedules: Schedule 03: FAC: Facilities Maintenance and Management; Schedule 56: Building and Building Materials/Industrial Services and Supplies; Schedule 70: General Purpose Information Technology

Equipment, Software, and Services; Schedule 71: Furniture; Schedule 84: Total Solutions for Law Enforcement, Security, Facilities Management, Fire,

Rescue, Clothing, Marine Craft, and Emergency/Disaster Response; Schedule 99: All Professional Services; and Schedule 738X: Human Resources

and EEO Services.

2. This is a significant improvement from the proposed rule, which applied the three-quote rule to each OLM valued over the much lower micropurchase threshold.

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