



Office of Audits
Office of Inspector General
U.S. General Services Administration

IMPLEMENTATION REVIEW OF ACTION PLAN


Applicability of Price Reductions
Over the Maximum Order Threshold
Report Number A130068/Q/3/P13002
April 26, 2013

Assignment Number A150119
April 15, 2015



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

DATE: April 15, 2015

TO: Thomas A. Sharpe, Jr.
Commissioner, Federal Acquisition Service (Q)


FROM: Susana Bandeira
Audit Manager, Mid-Atlantic Region Audit Office (JA-3)

SUBJECT: Implementation Review of Action Plan
Applicability of Price Reductions Over the Maximum Order Threshold
Report Number A130068/Q/3/P13002
April 26, 2013
Assignment Number A150119

We have completed an implementation review of the management actions taken in response to the recommendations contained in the subject audit report (see **Appendix A**). The objective of our review was to determine whether the Federal Acquisition Service (FAS) has taken the corrective actions as outlined in the Action Plan for the audit of the *Applicability of Price Reductions Over the Maximum Order Threshold*. To accomplish our objective we:

- Examined documentation submitted by FAS supporting accomplishment of the action plan steps;
- Performed limited testing of the implementation of the guidance and procedures contained in these supporting documents; and
- Corresponded with FAS personnel.

Our implementation review found that FAS addressed the audit recommendations in the action plan, dated July 26, 2013.

If you have any questions regarding this report, please contact me or any member of the audit team at the following:

Susana Bandeira	Audit Manager	susana.bandeira@gsaig.gov	(215) 446-4853
Robert Basile	Auditor-In-Charge	robert.basile@gsaig.gov	(215) 446-4852

On behalf of the audit team, I would like to thank you and your staff for your assistance during this review.

Background

On April 26, 2013, we issued an audit report, *Applicability of Price Reductions Over the Maximum Order Threshold*, to the FAS Commissioner. We conducted this audit because we identified a vendor practice of not applying price reduction discounts to schedule orders over the maximum order. This occurred because vendors claimed the plain language of GSA contract clause I-FSS-125, Requirements Exceeding the Maximum Order, exempts schedule orders over the maximum order from the Price Reductions clause. This practice could result in Multiple Award Schedule orders exceeding the maximum order receiving a less favorable discount than orders below the maximum order. The specific provision of I-FSS-125 cited by vendors is:

(b) Vendors may:

(1) offer a new lower price for this requirement (the Price Reduction [sic] clause is not applicable to orders placed over the Maximum Order in FAR 52.216-19.)

GSA disagreed with the vendors' interpretation of clause I-FSS-125, stating that government sales above the maximum order are eligible for all Price Reductions clause discounts, and the intent of the parenthetical statement in clause I-FSS-125 was to reiterate that no sales to the federal government "trigger" the Price Reductions clause, regardless of whether or not those sales are above the maximum order. GSA also stated that any interpretation to the contrary leads to the illogical conclusion that larger government orders are entitled to lesser discounts than smaller government orders.

The objectives of the audit were to advise FAS of the conflict in the interpretation of the GSA contract clause I-FSS-125, Requirements Exceeding the Maximum Order, and the impact the contractors' interpretation had on GSA pricing.

The audit found:

- Two vendors that failed to pass on over \$100 million in price reductions associated with GSA orders over the maximum order, citing clause I-FSS-125 as the basis for not providing the price reductions.
- No evidence that GSA intended for government orders above the maximum order to be excluded from price reduction discounts.
- GSA canceled clause I-FSS-125 in December 2004; however, schedule contracts still had the I-FSS-125 clause language in the contract documents.
- Although clause I-FSS-125 was not explicitly included in all contracts, language from the clause was still present in some contracts.

To address the issues identified in the report, we recommended that the FAS Commissioner:

1. Immediately review all schedule contracts to determine if I-FSS-125 clause language is still incorporated into any contracts, and if so, take steps to remove it.
2. Publish GSA's interpretation of I-FSS-125 clause language that government orders above the maximum order are entitled to price reduction discounts.

The FAS Commissioner agreed with our recommendations.

Results

Our implementation review found that FAS has taken appropriate corrective actions to address the recommendations. We determined that no further action is necessary to address our recommendations.

Appendix A – Action Plan for Report Number A130068/Q/3/P13002

ACTION PLAN

Contact Person: [REDACTED]
 Telephone: [REDACTED]
 Date: May 28, 2013 revised as of July 26, 2013

Audit Report Number/Title	Recommendation Number	Completion Date
A130068/Applicability of Price Reductions over the Maximum Order Threshold	1	February 28, 2014

Recommendation
 Immediately review all schedule contracts to determine if I-FSS-125 clause language is still incorporated into any contracts, and if so take steps to remove it.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to H1C.	Documentation will be sent by (date)
1	Issue a Mass Modification to ensure the removal of I-FSS-125 from schedule contracts and all "paraphrased" and similar language to I-FSS-125.	A copy of the Mass Modification	September 30, 2013
2	Review and track the removal of I-FSS-125 and all "paraphrased" and similar language to I-FSS-125 for contracts awarded by FAS Portfolios and report the results to QV.	A copy of the results	February 28, 2014

Audit Report Number/Title	Recommendation Number	Completion Date
A130068/Applicability of Price Reductions over the Maximum Order Threshold	2	September 23, 2013

Recommendation
 Publish GSA's interpretation of I-FSS-125 clause language that government orders above the maximum order are entitled to price reduction discounts.

Step	Action to be Taken Step by Step	Supporting Documentation to be Sent to H1C.	Documentation will be sent by (date)
1	Issue an Instructional Letter (IL) which interprets the I-FSS-125 clause language that additional discounts to GSA Schedule pricing pursuant to the operation of the Price Reduction Clause are mandated for all Schedule sales, including those above MO and its application to Schedule sales exceeding the MO.	A copy of the Instructional Letter	August 30, 2013
2	Post the Instructional Letter (IL) to http://www.data.gov so that all parties are aware that additional discounts to GSA Schedule pricing pursuant to the operation of the Price Reduction Clause are mandated for all Schedule sales, including those above the MO.	Copy of the IL	September 23, 2013
3	Post blog article informing GSA Vendors about the application of the Price Reduction Clause (PRC) to orders over the Maximum Order (MO) threshold and GSAs interpretation of I-FSS-125 clause language. Found at https://interact.gsa.gov/	Copy of the blog post	September 23, 2013

Appendix B – Report Distribution

Commissioner, Federal Acquisition Service (Q)

Deputy Commissioner, Federal Acquisition Service (Q1)

Chief of Staff (Q)

Controller (BF)

Assistant Commissioner, Office of Acquisition Management (QV)

Branch Chief, GSA/IG Audit Response Branch (H1C)

Audit Liaison, FAS (Q)

Assistant Inspector General for Auditing (JA)

Deputy Assistant Inspector General for Investigations (JID)

Director, Audit Planning, Policy, and Operations Staff (JAO)

Acting GSA Administrator (A)