



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

IT Reseller Contracts Present Significant Challenges for GSA's Schedules Program

*Report Number A120026/Q/6/P16003
July 22, 2016*



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

REPORT ABSTRACT

OBJECTIVE

Our objective was to evaluate how information technology (IT) schedule resellers affect schedule pricing, procurement workload, and the enforcement of contract clauses.

IT Reseller Contracts Present Significant Challenges for GSA's Schedules Program

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WHAT WE FOUND

Finding 1 – GSA offers many identical items on its IT schedule at widely varying prices, and lower commercial prices are available for many of the schedule items.

Finding 2 – Price protections are diminished when IT schedule resellers have low or no commercial sales and when the Price Reductions clause is modified to exclude certain sales.

Finding 3 – IT schedule reseller contracts with low or no schedule sales add to GSA workload and represent millions in unnecessary costs to the government.

WHAT WE RECOMMEND

We recommend that the Commissioner, Federal Acquisition Service (FAS):

1. Establish procedures to ensure that price variances for identical schedule items are supported by price analyses documenting additional concessions or services received on higher priced items. Otherwise, the identical items should not be awarded at the higher price.
2. In conjunction with the FAS Office of Acquisition Management, establish performance measures for FAS IT schedule contracting staff that reinforce the objective to obtain the resellers' most favored customer prices for schedule contract items during price negotiations.
3. Improve price protection for IT schedule reseller contracts by:
 - a. Establishing controls to ensure that contracting officers obtain accurate, current, and complete manufacturer commercial sales practices information for offered items when the resellers have low or no commercial sales. The controls should ensure that the specific items involved are not awarded until commercial sales practices information is provided; and
 - b. Establishing controls to ensure that deviations to the Price Reductions clause do not diminish price protections and are properly approved by the Head of the Contracting Activity.
4. Cancel IT schedule reseller contracts that do not meet the \$25,000 minimum sales requirement of the Schedules Program, focusing initially on those with no sales; or document the contract files to support decisions to maintain the contracts.
5. Consider increasing the \$25,000 minimum sales threshold for IT schedule reseller contracts to a level that offsets the government's cost to award and administer a schedule contract.
6. Consider alternatives to the current \$2,500 minimum payment clause in IT schedule reseller contracts.

GSA COMMENTS

The Deputy Assistant Commissioner, FAS Integrated Technology Services, concurred with our recommendations. GSA's comments can be found in their entirety in **Appendix C**.

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U.S. General Services Administration**

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FROM: Erin P. Priddy *Erin P. Priddy*
Audit Manager, Heartland Region Audit Office (JA-6)
SUBJECT: IT Reseller Contracts Present Significant Challenges for
GSA's Schedules Program
Report Number A120026/Q/6/P16003

This report presents the results of our audit of IT reseller contracts in GSA's Schedules Program. Our findings and recommendations are summarized in the Report Abstract. Instructions regarding the audit resolution process can be found in the email that transmitted this report.

GSA's comments to the draft report are included in **Appendix C** of this report.

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

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I would like to thank you and your staff for your assistance during this audit.

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Introduction

Under the authority of the Federal Property and Administrative Services Act of 1949, GSA established the Multiple Award Schedules (Schedules) Program in the 1950s to provide a streamlined process for the government to obtain commercial products and services at pricing associated with volume discounts. The Schedules Program allows agencies to place orders directly with contractors with the assurance that the orders meet federal competition requirements because GSA has already made the determination that the pricing is fair and reasonable.

The Competition in Contracting Act of 1984 (CICA), Public Law 98-369, sets a standard of competition for federal contracts. Within CICA, provision is made that orders placed under GSA's Schedules Program meet competition requirements as long as they result in the lowest overall cost alternative to meet the government's needs. To enable ordering agencies to meet this requirement, GSA's negotiation policy is to obtain the best price granted to the supplier's most favored commercial customer under the premise that the commercial marketplace establishes the best pricing. In order to meet this objective, GSA requires the contractor to provide full disclosure of their actual sales practices so that the FAS contracting officer can identify the most favored customer pricing granted, compare that pricing to the pricing the contractor is offering the government, and negotiate equivalent pricing. If the most favored customer pricing is not achieved, the contracting officer should ask the offeror to explain and justify the reason, such as differing terms and conditions between commercial and government sales.

Once a schedule contract is awarded, GSA ordering procedures for the Schedules Program contained within Subpart 8.4 of the Federal Acquisition Regulation (FAR) provide specific instructions for government agencies to ensure that orders placed under the contract result in the lowest overall cost to meet their needs. Further, in the event the contractor grants more favorable commercial pricing during the term of the schedule contract, the Price Reductions clause ensures that the government will also receive the lower price.

As of July 2015, GSA maintained 16,301 schedule contracts and fiscal year (FY) 2015 sales under the Schedules Program were \$33.4 billion. FAS's Office of IT Schedule Programs (IT Center) manages the IT schedule (*i.e.*, Schedule 70), which is the largest of the program's 24 schedules. The IT Center maintained 4,589 contracts as of July 2015, and FY 2015 sales were \$14.8 billion.

FAS awards IT schedule contracts to both manufacturers and resellers of IT equipment, software, and services. The majority of IT schedule contracts are with resellers. In the 1-year period August 2014 through July 2015, \$84.1 million in IT schedule purchases were made through GSA *Advantage!*¹ We estimate that 86 percent of the GSA

¹ GSA *Advantage!* is GSA's online system for government agencies to purchase schedule items.

Advantage! IT schedule contracts were with resellers and that 95 percent of the sales were through IT schedule resellers.

We conducted this audit at the request of FAS management based on their concerns with the impact of resellers on the IT schedule, particularly the number of resellers and varying prices for the same items.

Objective

Our objective was to evaluate how IT schedule resellers affect schedule pricing, procurement workload, and the enforcement of contract clauses.

See **Appendix A** - Purpose, Scope, and Methodology for additional details.

Results

Finding 1 – GSA offers many identical items on its IT schedule at widely varying prices, and lower commercial prices are available for many of the schedule items.

We determined that many identical items are available under numerous IT schedule contracts at prices that often vary significantly. The wide price variances for identical items raise the question of how the prices were determined to be fair and reasonable. In addition, we found lower commercial prices for the majority of the schedule items we evaluated. This indicates that GSA pricing for some IT schedule resellers is not competitive. Lower commercial prices also suggest that the prices awarded under such reseller contracts may not represent the lowest overall cost or the best possible price.

To evaluate how IT schedule resellers affect schedule pricing, we reviewed 118,241 sales of IT schedule items made through GSA *Advantage!* in the 1-year period August 2014 through July 2015. The sales were made by 806 contractors; 691 were resellers and 115 were manufacturers.² For 75 top-selling items, 72 (96 percent) were available for purchase from more than one IT schedule contractor, with a range of 2 to 128 resellers offering the same item and an average of 15 resellers supplying each item. As of August 2015, the highest schedule contract price for each item averaged 51 percent more than the lowest price. For example, Sharp TV - LC-70LE650U was available through 16 GSA IT schedule contractors at prices ranging from \$1,597.96 to \$3,009.70.

Figure 1 shows seven examples of top-selling GSA *Advantage!* IT items offered for sale through multiple IT schedule contractors at widely varying prices with the same terms and conditions. The variance from the highest GSA price to the lowest GSA price for these seven items ranged from 25 to 88 percent. During our review period, GSA *Advantage!* showed 3,096 units sold for these seven items. We determined that 2,207 units (71 percent) were sold at a price that was higher than the lowest IT schedule price.

Figure 1 – Multiple Contracts and Varying Prices as of August 2015

Item Description	Number of IT Schedule Contractors Offering this Item	Lowest GSA Price	Highest GSA Price	Price Variance
Sharp TV - LC-70LE650U 	16	\$1,597.96	\$3,009.70	88%
Cisco Aironet Access Point AIR-CAP3602I-A-K9 	13	\$650.00	\$1,190.37	83%

² We found similar conditions in a 2012 sample of 50 top-selling IT schedule items.

Figure 1 – Multiple Contracts and Varying Prices as of August 2015 (cont.)

Item Description	Number of IT Schedule Contractors Offering this Item	Lowest GSA Price	Highest GSA Price	Price Variance
Cisco IP Phone CP-7965G-CCME 	5	\$470.01	\$587.61	25%
Kingston Hard Drive SV300S37A/240G 	6	\$127.52	\$222.10	74%
Seagate Barracuda Internal Drive - ST2000DM001 	16	\$91.52	\$147.44	61%
Microsoft Ergonomic Keyboard - B2M-00012 	21	\$37.77	\$53.20	41%
Western Digital Hard Drive WDBMWV0020BBK-NESN 	9	\$133.52	\$166.37	25%

In interviews about price variability, FAS officials have stated that prices can vary for the same items if the variance is justified by additional services or concessions. However, the items that we reviewed in our sample were identical, and the price variances were not due to additional services or concessions.

Commercial prices were lower for 56 (75 percent) of 75 top-selling items for the 1-year period August 2014 to July 2015. The commercial price averaged 13 percent lower than the lowest GSA IT schedule contract price. The largest difference from the commercial price to the highest GSA *Advantage!* price was 314 percent. *Figure 2* shows the results of our analysis of commercial prices for the same seven items shown in *Figure 1*. The lowest identified commercial price for these seven items ranged from 24 to 72 percent lower than the lowest GSA schedule price with the same terms and conditions. For example, the commercial price for Western Digital Hard Drive (WDBMWV0020BBK-NESN) was 72 percent lower than the lowest GSA *Advantage!* price.

Figure 2 – Lower Commercial Prices as of August 2015³

Item Description	Lowest Commercial Price	Lowest GSA Price	Percentage that Lowest GSA Price exceeded Lowest Commercial Price
Sharp TV - LC-70LE650U 	\$1,289.00	\$1,597.96	24%
Cisco Aironet Access Point AIR-CAP3602I-A-K9 	\$433.00	\$650.00	50%
Cisco IP Phone CP-7965G-CCME 	\$342.00	\$470.01	37%
Kingston Hard Drive SV300S37A/240G 	\$74.99	\$127.52	70%
Seagate Barracuda Internal Drive - ST2000DM001 	\$69.88	\$91.52	31%
Microsoft Ergonomic Keyboard - B2M-00012 	\$28.51	\$37.77	32%
Western Digital Hard Drive WDBMWW0020BBK-NESN 	\$77.42	\$133.52	72%

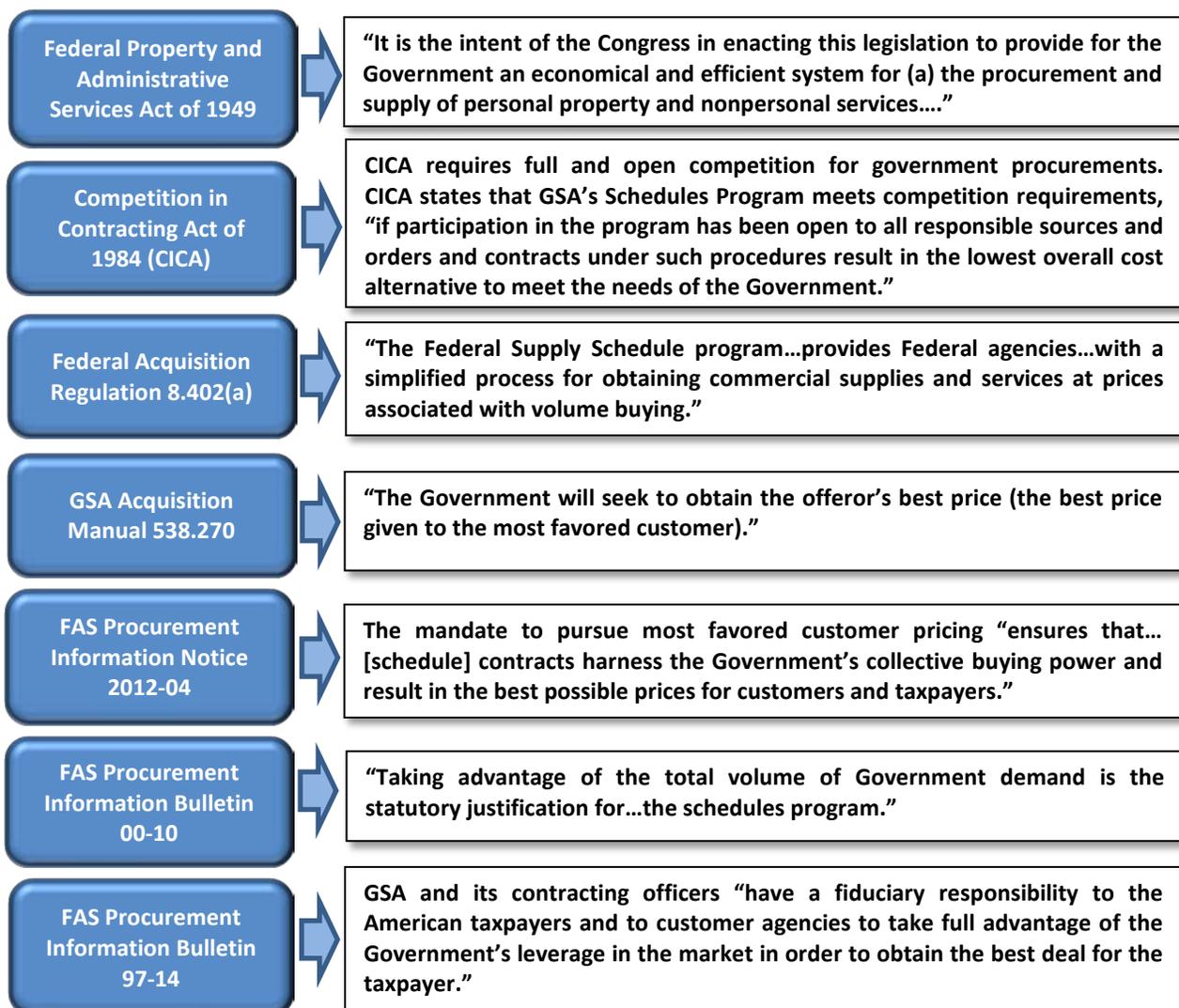
As described in the Introduction of this report, when awarding schedule contracts, GSA determines that the contract prices are fair and reasonable. Agencies using the Schedules Program may place orders using the schedule contract price and are not required to obtain further competition unless the order exceeds the simplified acquisition threshold, which is currently \$150,000. However, the price variability for IT schedule items and the availability of lower commercial prices for these items call into question whether customers can rely on IT schedule reseller pricing to be fair and reasonable.

³ Price comparisons were based on prices offered by commercial retailers for identical manufacturer part numbers that IT schedule contractors certified as compliant with the Trade Agreements Act.

For example, GSA’s largest customer, the Department of Defense (DoD), does not rely on GSA’s price reasonableness determinations. DoD has implemented a policy that requires additional price evaluation when ordering from schedule contracts. DoD’s policy, issued on March 13, 2014, requires its contracting officers to make a determination of fair and reasonable pricing when placing an order under a schedule contract (Defense Acquisition Regulations System Tracking Number 2014-O0011). DoD reinforced this directive on July 31, 2015, stating that, “DoD ordering activities cannot rely on GSA’s price reasonableness determination alone.” The DoD policy goes beyond the general requirements for schedule ordering, as explained in FAR 8.404(d), “GSA has already determined the prices...under schedule contracts to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing....”

Further, the government’s significant purchasing power should allow GSA to leverage the commercial marketplace to obtain the best prices. This concept is at the foundation of the government’s contracting laws, regulations, and policies shown in *Figure 3*.

Figure 3 – Criteria Related to Schedule Contract Prices



IT schedule prices that are higher than those commercially available are inconsistent with provisions of the laws, regulations, and policies listed in *Figure 3*. Such pricing fails to fulfill a primary component of the value proposition of the Schedules Program, which is competitive, market-based pricing that leverages the buying power of the federal government. The IT Center should establish procedures to ensure that price variances for identical schedule items are supported by price analyses documenting additional concessions or services received on higher priced items. Otherwise, the IT Center should take steps to remove the higher-priced identical items from the IT schedule.

IT Center officials advised us that FAS has been developing a competitive pricing initiative to reduce the price variability of schedule items. In addition to these efforts, FAS could also develop performance measures that emphasize pricing. FAS performance measures for contracting officers in the Schedules Program have focused on the expedient processing of contract awards and the number of contract actions processed. In audits from 2007 and 2009, we recommended that FAS develop performance measures to make price a prominent evaluation factor for contracting staff. While FAS officials agreed with our recommendations and incorporated overall contract quality into organizational performance measures, they have not established a measure for contracting staff that specifically focuses on pricing. See **Appendix B** for more information on these audits.

As noted in *Figure 3*, per FAR 8.402(a), the Schedules Program provides federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. Accordingly, FAS should establish performance measures that focus on the Schedules Program's primary requirement to obtain commercial goods and services at prices associated with volume buying. These prices should be based on competitive non-governmental transactions in the commercial marketplace. The performance measures should include not only the number of schedule contracts awarded but also the quality of the contract pricing. In addition, FAS should establish controls to ensure that schedule contracts for identical items are priced at the lowest schedule price or that any higher price is justified. These controls should include a comparison of identical items under schedule contracts.

Finding 2 – Price protections are diminished when IT schedule resellers have low or no commercial sales and when the Price Reductions clause is modified to exclude certain sales.

The cornerstone of the Schedules Program is competitive, market-based pricing. A contractor's commercial sales provide contracting officers with a basis to evaluate offered pricing. According to GSA policy, during contract negotiations the government will seek to obtain the offeror's best price by evaluating the pricing offered the government against pricing, terms, and conditions offered or granted to the offeror's commercial customers.⁴ Over the life of the contract, prices are kept competitive and market-based through the Price Reductions clause.

⁴ GSA Acquisition Manual 538.270.

However, GSA's ability to obtain competitive, market-based pricing may be impaired when an IT schedule reseller has minimal commercial sales. Based on our review of 24 GSA OIG preaward audit reports on IT schedule resellers issued from 2009 to 2015, we found that many of these resellers did not sell in significant quantities in the commercial marketplace. Specifically, three resellers had no commercial sales and an additional seven had only minimal commercial sales of the products being offered on the schedule contracts. As a result, sales in the commercial market could not be used to establish contract pricing.

Although the Commercial Sales Practices form states that resellers without significant commercial sales must provide information on manufacturer sales practices, resellers and manufacturers do not always provide this data. In these cases, GSA contracting staff cannot base contract pricing on the commercial sales practices and must look to alternate methods to support fair and reasonable pricing. However, GSA has not developed any alternative methodologies to ensure that pricing is competitive, market-based pricing. Its policy is solely based on obtaining commercial sales practices data from either the offeror or the manufacturer.

As a result, GSA needs to establish controls to ensure that contracting officers are obtaining and using manufacturer commercial sales practices data for resellers where significant commercial sales are not the basis of award. Further, these controls should ensure that the specific items involved are not awarded until commercial sales practices information supporting the proposed pricing is provided.

In addition, these audits identified problems with deviations to the standard Price Reductions clause that essentially rendered the clause ineffective. Price reduction provisions are in place to ensure that if an item's price decreases in the commercial marketplace, as is common in the IT industry, then the reductions are passed on to schedule contract customers. However, we identified schedule contracts that no longer had adequate price reduction protections because the Price Reductions clauses were modified before the contract was awarded.

The standard Price Reductions clause specifies that "before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship." It states that "any change in the Contractor's commercial pricing or discount arrangement...which disturbs this relationship shall constitute a price reduction." However, the IT schedule reseller audit reports we reviewed determined some reseller contracts contain modified Price Reductions clauses that limit the circumstances under which price reductions are granted.

Some modified Price Reductions clauses that do not protect the schedule pricing are shown on the next page.

Example 1

“...in the event of a spot price reduction from the manufacturer for a specific opportunity, [the contractor] has the ability to, but is not required to pass all or part of the price reduction on to the federal government for that opportunity, without being limited to the agreed upon mark-up.”

For this reseller, spot price reductions were a standard business practice. The Price Reductions clause would not apply in these cases.

Example 2

“...price reductions are only triggered by reductions in its acquisition cost (OEM list price reductions, increases in discounts, or changes in terms or conditions). The CSP also specifically excludes vendor rebates, spiffs [sales performance incentives], and sales promotions from initiating price reductions.”

Rebates, spiffs, and sales promotions would typically trigger price reductions for the government. This price reduction language was included in a schedule contract where pricing was based on the reseller's acquisition cost plus a markup. This language could allow the reseller to realize additional profit when its net acquisition cost decreases.

Example 3

One contract established three specific customers as the basis of award for price reduction purposes, but these customers rarely purchased the same items as schedule customers. The contract also excluded contractor rebates and sales promotions from initiating price reductions, conditions that typically would trigger price reductions for the government.

Example 4

One contract included numerous exceptions to the Price Reductions clause. These included the exclusion of volume commitments, enterprise deployments, new market penetration, promotional pricing, end-of-quarter sales, advance payments, and pricing to beat competition.

This type of exception language negates the price protections intended by the Price Reductions clause. As a result, GSA's ability to ensure competitive, market-based pricing is impaired. Further, deviations to this clause require the approval of the Head of the Contracting Activity, but deviations should not be approved if they diminish price protections.⁵ FAS should ensure that unapproved Price Reductions clause deviations and deviations that diminish price protections revert to the standard clause and establish controls to ensure that future deviations are properly approved.

We have previously brought this issue to the attention of GSA management. Our 2014 annual audit memorandum summarizing the results of our audits of schedule contracts noted the need to address ineffective Price Reductions clauses.⁶

⁵ GSA Acquisition Manual 501.403.

⁶ Major Issues from Multiple Award Schedule Audits, *Audit Memorandum Number A120050-4*.

Finding 3 – IT schedule reseller contracts with low or no schedule sales add to GSA workload and represent millions in unnecessary costs to the government.

During FYs 2011 to 2014, total sales for approximately 1,200 out of about 1,600 IT schedule reseller contracts were insufficient to cover GSA's administrative costs. Since 2007, FAS has spent about \$25 million administering IT schedule reseller contracts with low or no sales. In addition, about 400 IT schedule reseller contracts had less than \$2,500 in sales during the period FY 2011 to 2014. In accordance with the contracts' minimum sales guarantee clause, which requires the government to pay the difference between the amount ordered on the contract and \$2,500, GSA is potentially liable for payments of approximately \$1 million to these 400 contractors.

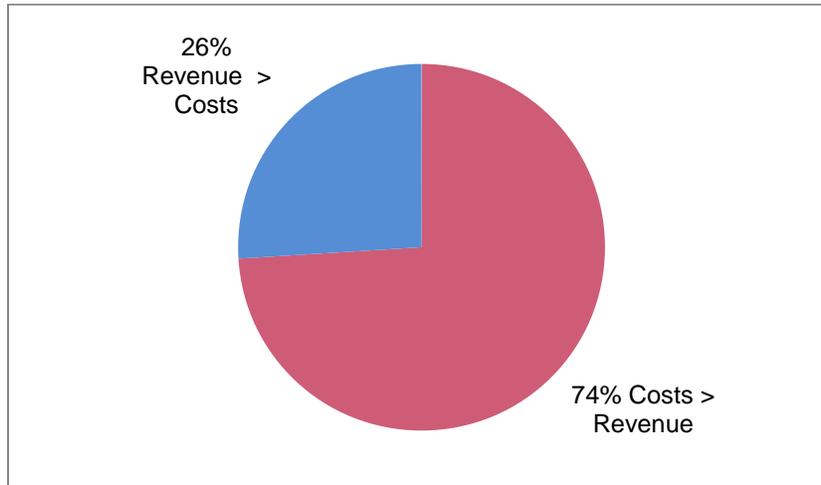
We have previously raised the issue of low and no sale schedule contracts to FAS management. In a 2007 audit report, we discussed this concern and recommended that FAS adopt a structured approach to reducing the number of underused schedule contracts.⁷ While FAS management has agreed that schedule contracts with low or no schedule sales are a significant drain on resources, little progress has been made to correct the problem. In FY 2014, 80 percent of the IT Center's Industrial Funding Fee (IFF) revenue was generated by 5 percent of its contracts, and 90 percent of its revenue was generated by 10 percent of its contracts. This indicates substantial FAS resources are expended on contracts that generate little or no revenue.

FAS contract clause I-FSS-639, Contract Sales Criteria, requires schedule contractors to achieve \$25,000 in contract sales within the first 2 years of the contract and maintain a minimum of \$25,000 in sales for each succeeding year. We note that this minimum sales volume would generate only \$187.50 in IFF revenue, yet the requirement has not been adjusted in 14 years.

In June 2012, FAS estimated that it costs, on average, \$3,000 annually to maintain each schedule contract. With the 0.75 percent IFF that has been in effect since FY 2004, a contract would require annual sales of \$400,000 for GSA to recover this cost. As shown in *Figure 4*, during FYs 2011 to 2014, approximately 1,200 (74 percent) of IT schedule reseller contracts failed to achieve this level of sales.

⁷ *Review of Multiple Award Schedule Program Contract Workload Management* (Report Number A060190/Q/6/P07004, dated July 31, 2007).

Figure 4 - IT Schedule Reseller Contract Use, FYs 2011 - 2014



A March 2009 presidential memorandum provides impetus to modify or eliminate underused contracts.⁸ The memorandum calls for identifying contracts that are wasteful, inefficient, or otherwise not likely to meet an agency’s needs and to take corrective action. The memorandum notes that “action may include modifying or canceling such contracts in a manner and to the extent consistent with applicable laws, regulations, and policy.” In addition, GSA’s current instructions to Schedules Program contractors state, “In order for your Schedule contract to be maintained by GSA, your company must accrue at least \$25,000 of GSA reportable sales during the first 24 months of your contract, and maintain an additional \$25,000 in sales each year thereafter.”

In 2012, FAS established the “Productive Contracts Team” to evaluate IT schedule contracts with low or no sales. FAS officials reported that between 2012 and 2014, the team looked at 750 contracts.⁹ The team cancelled 248 of them and reported annual cost savings to the government in excess of \$794,000. The team also identified unreported sales of about \$3.6 million. After contacting the contractors, FAS decided not to cancel the remaining 502 contracts due to pending, potential, and/or unreported sales. However, it is a continuing concern that resellers are not meeting the \$25,000 sales requirement.

Based on the cost to the government, we question how it is in the government’s interest to continue with reseller contracts that have low or no sales. The most efficient and cost effective solution is for FAS to cancel reseller contracts not meeting the \$25,000 minimum sales requirement and to consider increasing the minimum sales requirement. However, if FAS believes the benefits of maintaining a low or no sale reseller contract outweigh the FAS resources needed to maintain the contract, FAS should ensure that the contract file includes proper documentation to support this decision.

⁸ Memorandum for the Heads of Executive Departments and Agencies, dated March 4, 2009, with a subject identified as *Government Contracting*.

⁹ The IT schedule had 5,159 contracts in 2012, and 4,589 in July 2015.

Another concern with underused contracts relates to the minimum payment defined by contract clause I-FSS-106, Guaranteed Minimum, which states:

The minimum that the Government agrees to order during the period of this contract is \$2,500. If the Contractor receives total orders for less than \$2,500 during the term of the contract, the Government will pay the difference between the amount ordered and \$2,500.

We found that about 400 IT schedule reseller contracts had total sales of less than \$2,500 during FYs 2011 to 2014. These contracts represented a potential FAS financial liability of about \$1 million; accordingly, FAS should consider alternatives to this clause in future IT schedule reseller contracts.¹⁰

Recommendations

We recommend that the Commissioner, Federal Acquisition Service (FAS):

1. Establish procedures to ensure that price variances for identical schedule items are supported by price analyses documenting additional concessions or services received on higher priced items. Otherwise, the identical items should not be awarded at the higher price.
2. In conjunction with the FAS Office of Acquisition Management, establish performance measures for FAS IT schedule contracting staff that reinforce the objective to obtain the resellers' most favored customer prices for schedule contract items during price negotiations.
3. Improve price protection for IT schedule reseller contracts by:
 - a. Establishing controls to ensure that contracting officers obtain accurate, current, and complete manufacturer commercial sales practices information for offered items when the resellers have low or no commercial sales. The controls should ensure that the specific items involved are not awarded until commercial sales practices information is provided; and
 - b. Establishing controls to ensure that deviations to the Price Reductions clause do not diminish price protections and are properly approved by the Head of the Contracting Activity.
4. Cancel IT schedule reseller contracts that do not meet the \$25,000 minimum sales requirement of the Schedules Program, focusing initially on those with no sales; or document the contract files to support decisions to maintain the contracts.

¹⁰ Per clause I-FSS-106, the amount payable is contingent on two things: (1) the contractor must have submitted timely IFF reports, and (2) the contract is expired or terminated by the government.

5. Consider increasing the \$25,000 minimum sales threshold for IT schedule reseller contracts to a level that offsets the government's cost to award and administer a schedule contract.
6. Consider alternatives to the current \$2,500 minimum payment clause in IT schedule reseller contracts.

GSA Comments

The Deputy Assistant Commissioner, FAS Integrated Technology Services, concurred with our recommendations. GSA's comments can be found in their entirety in ***Appendix C***.

Conclusion

We determined that many identical items are available under numerous IT schedule contracts at prices that often vary significantly. In addition, many of these IT items are available from commercial sources at prices that are lower than the GSA schedule prices. These results raise questions as to the reasonableness of the GSA pricing for these items.

Further, contracts with IT schedule resellers that do not have significant commercial sales and/or contracts with modified Price Reductions clauses present challenges in contract award and administration. Management action is needed to ensure the government receives competitive pricing at award as well as throughout the life of the contract and that GSA maximizes the government's buying power.

Finally, although we recommended in 2007 that FAS take action to reduce schedule contracts with low or no sales, thousands of contracts remain that do not cover their costs, including approximately 1,200 IT schedule reseller contracts. Based on GSA's estimated cost to award and administer each contract, expenses have exceeded revenue for the underused reseller contracts by about \$25 million since our previous recommendation.

Appendix A – Purpose, Scope, and Methodology

Purpose

We conducted this audit at the request of FAS management based on their concerns with the impact of resellers on the IT schedule, particularly the number of resellers and varying prices for the same items.

Scope and Methodology

We evaluated controls related to price, workload, and enforcement of schedule contract clauses, with an emphasis on contracts held by IT schedule resellers. We focused primarily on IT schedule sales from FYs 2011 through 2014, GSA *Advantage!* sales for FY 2011 and the 1-year period August 2014 through July 2015, and our contract audits from 2009 through 2015.

To accomplish our objective, we:

- Reviewed relevant criteria, including laws, regulations, procurement notices and bulletins, memorandums, manuals, and contract clauses;
- Reviewed all 118,241 sales of IT schedule items made through GSA *Advantage!* in the 1-year period August 2014 through July 2015. The sales were made by 806 contractors, of which 691 were resellers and 115 were manufacturers;
- Reviewed commercial and schedule pricing for the 119 top-selling IT schedule items by sales dollars that were sold through GSA *Advantage!* for the 1-year period August 2014 through July 2015. The 119 items represent 13 percent of sales by resellers. We eliminated 44 of these items from our sample primarily because they were discontinued items, no longer on GSA *Advantage!*, or invalid part numbers. The 75 items in our final judgmentally selected sample represented 8 percent of sales by resellers;
- Reviewed 24 GSA OIG preaward audit reports related to IT schedule resellers issued from 2009 through 2015. Collectively, these 24 contracts represented \$8.2 billion in IT schedule sales; and
- Interviewed FAS officials as deemed necessary.

We conducted the audit between October 2011 and February 2016. Our work was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

We evaluated controls related to pricing, procurement workload, and the enforcement of contract clauses for IT schedule reseller contracts.

Appendix B – Recommendations Related to Performance Measures in Prior OIG Audit Reports

Review of Multiple Award Schedule Program Contract Workload Management Report Number A060190/Q/6/P07004, issued July 31, 2007

Recommendation

Establish performance measures that evaluate contracting officer: (a) verification of vendor disclosures related to commercial sales practices, (b) effectiveness in analyzing prices and conducting negotiations, and (c) consideration of the field pricing assistance.

Management Action Plan

Develop meaningful performance measures.

Recommendation Status

After nearly nine years and five extensions for completion, FAS has not developed performance measures as recommended.

Review of Program Performance Measurement for Procurement Report Number A070171/Q/A/P09005, issued September 30, 2009

Recommendation

Ensure that the Offices of Integrated Technology Services; General Supplies & Services; and Travel, Motor Vehicles, and Card Services portfolios develop an organizational measure for FY 2010 and future scorecards to evaluate price analysis for a risk-based sample of proposed awards or modifications (e.g., percent of contracting actions reviewed with acceptable price analysis performed and documented in compliance with regulatory guidelines).

Management Action Plan

The initial action plan we approved called for FAS to complete four steps, including developing a tracking measure related to pricing for each business line by June 15, 2010. However, FAS revised the action plan on November 3, 2011, as follows:

1. Issue an Instructional Letter covering contract quality (effectiveness of price analysis and negotiations) through a number of review mechanisms, including Pre-Negotiation Clearance Panels (PNCPs). Note: PNCPs will be conducted on the top 5% (estimated contract dollar value) of contract awards for each schedule.
2. Incorporate a pricing measure into the Multiple Award Schedules Scorecard.

Recommendation Status

FAS has not developed a performance measure directly related to price.

Appendix C – GSA Comments



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July 1, 2016

MEMORANDUM FOR: John Walsh
Regional Inspector General for Auditing
Heartland Region Audit Office (JA-6)
Office of Inspector General

FROM: Kay Ely *Kay Ely*
Deputy Assistant Commissioner
Integrated Technology Services (QT)
Federal Acquisition Service

SUBJECT: Office of Inspector General (OIG) Draft Report A150026- IT Reseller Contracts Present Significant Challenges for GSA's Schedules Program February 24, 2016

Thank you for the opportunity to comment on the referenced report, based on an audit begun in 2011-2012. As a note, I was unable to attend the entrance conference in 2011, as it pre-dated my time with the U.S. General Services Administration (GSA). Provided herein is the response to the draft report's findings, including both general observations and responses to specific findings related to the GSA Schedules Program. Much of the material is similar in content to the draft Audit response provided by IT Schedule 70 in July of 2015. I am happy to report substantial progress since the audit began in 2011.

Finding 1 – GSA offers many identical items on its IT schedule at widely varying prices, and lower commercial prices are available for many of the schedule items.

We agree that it is not advantageous to the Government to have identical items on different contracts at greatly varying prices and in order to address this, over the past four years the Federal Acquisition Service (FAS) Office of Acquisition Management (QV), in conjunction with the FAS Acquisition Portfolios has been engaged in the Multiple Award Schedule (MAS) Transformation initiative which focuses on Innovation, Reduced Cycle Time, Competitive Pricing, and Stakeholder Engagement. Based on

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customer feedback and changing market conditions, including the proliferation of other contract vehicles, GSA decided to examine the \$38 billion MAS Program to ensure that it continues to offer the efficiency and value it was created to provide. In essence, customers want faster contract awards, better pricing, increased visibility into pricing, increased compliance, and meaningful and timely program data.

There have been significant changes and initiatives to realign MAS offerings to improve competitive pricing, to enhance the customer experience, and train the contracting staff to effectively and efficiently implement these changes. In addressing the competitive pricing area, the IT Schedule 70 Center is supporting the MAS Competitive Pricing Initiative (CPI) and developing pricing tools. QV has worked with the FAS portfolios to utilize existing system modules and programs to create an on-going dynamic pricing environment. This effort has included extensive and in-person training for the FAS acquisition contracting staff.

FAS has been working towards improving pricing and reducing price variability, especially for identical items, by implementing commercial pricing tools such as Price Point (XSB). XSB allows the contracting staff to compare products via an automated tool to evaluate the price reasonableness of all existing and future GSA Advantage! product listings and contract price modifications. In collaboration with this tool, the XSB team has provided GSA Price Point training webinars on a monthly basis to contracting staff since FY2012.

Based on the demonstrated utility of XSB's pricing service and the need to standardize part numbers and product attributes for comparison and analysis on a pre-award basis, FAS has developed a Formatted Pricing Tool (FPT) that will be launched in July 2016 and is being codified in the GSAM Part 538. Key features of the FPT include:

- Standardization of product information (manufacturer name, part number, description, etc.)
- Identification of duplicate contract items (to be targeted for removal)
- Elimination of the lag between award/modification changes and GSA Advantage! system updates

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- Improved price comparison capabilities on GSA Advantage! by displaying identical items on a single product page
- Automation of FAS defined horizontal price analysis rules to establish price targets (reduces price variability)
- Additional benefit of allowing the repurpose of 30 Full Time Employees (FTE) to other duties/\$3.1 million in labor hour burden annually (\$2.1 million Industry / \$1 million Government)

On April 23, 2015, MAS Solicitations were refreshed to incorporate the updated version of provision SCP-FSS-001, Instructions Applicable to all Offerors. These instructions included revised language that specifies the additional requirement for submission of Universal Product Code Type – A (UPC-A) data for all products for which this data is commercially available. Inclusion of UPC-A data further enhanced the ability of MAS Contracting Officers to perform more accurate product matching, increasing the effectiveness of horizontal pricing initiatives. Offerors were also notified that if this data is not submitted, or is submitted incorrectly, the associated products may not be awarded.

Additionally, as part of the MAS Transformation initiative, IT Schedule 70 took part in the Competitive Pricing Initiative (CPI), where offerors' prices are analyzed based solely on commercial market prices and we use that market pricing to evaluate all competitors pricing for identical items. Competitive price analysis means GSA will be also be moving toward a new horizontal model that analyzes prices in comparison to market prices, including Schedule prices, for the same items as opposed to the traditional vertical pricing model. As a result of CPI analysis, GSA reduced pricing for approximately 3,374 items on IT Schedule 70, which were identified as outside the competitive threshold. Competitive threshold was determined at the FAS level based on a sliding scale of acceptable price variability based on an items unit price, in effect allowing for greater price variability for low cost items, and less price variability for higher priced items. Of the 3,374 reduced products; 1,699 products were reduced below the competitive threshold, 1,289 products were reduced to the competitive threshold, and 386 products were reduced from their original price, but not within the competitive threshold.

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We would also like to note that upcoming initiatives including FPT will further help to advance the ongoing discussion in these areas thus reducing government risk.

We agree with your recommendations related to pricing performance measures. In conjunction with the aforementioned efforts, we fully intend to continue to take steps to address your concerns and continue to analyze pricing and reach out to vendors that are offering higher pricing to reduce the price variability currently on schedule.

Finding 2 – Price protections are diminished when IT schedule resellers have low or no commercial sales and when the Price Reductions clause is modified to exclude certain sales.

We agree with the concern that the Reseller pricing model has substantial differences from the Original Equipment Manufacturer (OEM) pricing model. Thus, historically the contracting staff was left to negotiate Reseller pricing based on the pricing it receives from OEMs. Noting that a contractor needs to be tied to the Price Reduction Clause for price protection, IT Schedule 70 has instructed the contracting staff to ensure that Reseller contracts are evaluated based on a Commercial Sales Practices Chart apart from the ones submitted by OEMs via the Letter of Supply. We will continue to reinforce this through training and the aforementioned pricing initiatives under MAS Transformation while allowing OEMs the freedom and flexibility to execute their own business practices.

We agree that COs should seek the manufacturer's commercial sales practices when resellers do not have significant commercial sales in accordance with the Commercial Sales Practices Clause, (CSP-1) and utilize pricing tools such as the Formatted Pricing Tool (FPT) to establish a fair and reasonable price. The IT Schedule 70 acquisition staff will receive training in this area to ensure they are well informed and comfortable requesting this information and to mitigate potential issues.

Finding 3 – IT schedule reseller contracts with low or no schedule sales add to

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GSA workload and represent millions in unnecessary costs to the government.

As with the other FAS Acquisition Centers managing Schedule contracts, the IT Schedule 70 follows FAS INSTRUCTIONAL LETTER 2013-02 to implement a standardized process for the monitoring of vendor sales across the Federal Supply Schedule (FSS) program. The IT Schedule 70 has referenced the Schedules Contract Sales Compliance Training, Tools, and Templates to assist the contracting staff when communicating with GSA Vendors in a post-contract award environment.

In addition, the IT Schedule 70 developed Operational Notice AO-2010-005 (Cancelling Schedule 70 Contracts whose Sales are Less than Established Sales Criteria), which outlined guidance to the contracting staff when dealing with contractors who do not meet the minimum sales criteria. The supplemental notice provided further guidance for cancelling Schedule 70 contracts whose sales were less than the established minimum sales criteria of \$25,000 within the first 24 months, or not maintained at a minimum of \$25,000 in sales for each succeeding year. This supplemental letter did not supersede FAS INSTRUCTIONAL LETTER 2013-02, Procurement Information Notice (PIN) 2007-03, FAS Acquisition Letter FX-98-8, or clauses I-FSS-639 Contract Sales Criteria and I-FSS-106 Guaranteed Minimum; however, the supplemental letter augmented the existing guidance.

Further, over the past two years, IT Schedule 70 established the No/Low Sales Team (now called the Productive Contracts Team). The team was established to analyze the low and no sales contractors (inclusive of Resellers and OEMs) on IT Schedule 70. This team was comprised of contracting and non-contracting staff who utilized standardized processes including scripts and best practices as a more effective strategy for ensuring consistent and ongoing communication regarding contract sales compliance. Since February 2014, this effort has resulted in the cancellation of 358 non-productive contracts, and 696 contracts becoming productive meeting the minimum sales criteria of \$25,000 per year. Additionally, there was \$10,886,595 in unreported sales discovered, resulting in \$816,494.63 in Industrial Funding Fee.

We agree on the importance of continuing to focus on those unproductive contracts and in May 2015, the Schedule 70 Administrative Contracting Officers located in Region 1

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took the lead on this initiative. Attachment A provides a snapshot of their efforts thus far. They will continue to review and evaluate contracts and COs are involved by providing concurrence on cancellations. Additionally, a recent example in support of a small business is Nimbus Consulting LLC, which was reviewed by the Productive Contracts Team as the vendor reported zero sales for the first two years of the contract. In correspondence with the vendor as part of the review process, the team determined to withdraw the cancellation modification in January 2016 to allow the vendor additional time to incur sales under the contract. This consideration proved beneficial to both the vendor and the Government as the vendor ended up receiving a five-year order totaling \$25 million.

Lastly, IT Schedule 70 has also requested that the MAS Governance Council renew discussions on changes to the minimum sales criteria with the rest of the MAS program. Discussions are anticipated to start in the third quarter of FY2016. IT Schedule 70 intends to continue with the Productive Contracts Initiative through these discussions.

Enclosures:
Attachment A

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Attachment A: Productive Contracts Team Data

	FY15 (May 2015 – September 2015)	FY16 (October 2015 – June 27, 2016)
Cancelled contracts	67	250
Withdrawn eMods processed	296	507
Discovered and became sales	\$12,084,066	\$8,507,395
eMods for cancellation currently under review	N/A	141

Note: The total number of contracts reviewed for FY16 as of June 27, 2016, is 898, which represents those contracts within IT Schedule 70 that are currently eligible for cancellation due to low or no sales.

Appendix D – Report Distribution

GSA Administrator (A)

FAS Commissioner (Q)

Deputy Commissioner (Q1)

Chief of Staff (Q)

Assistant Commissioner, Office of Integrated Technology Services (QT)

Assistant Commissioner, Office of Acquisition Management (QV)

Program Management Officer (QV0E)

Financial Management Officer, FAS Financial Services Division (BGF)

Director, Office of IT Schedule (QTF)

Chief Administrative Services Officer (H)

GAO/IG Audit Management Division (H1G)

Assistant Inspector General for Auditing (JA)

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