



3/22/2023

Class Deviation CD-2021-01  
Supplement 1

MEMORANDUM FOR GSA CONTRACTING ACTIVITIES

FROM:

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OFFICE OF ACQUISITION POLICY (MV)

DocuSigned by:  
*Jeffrey A. Koses*

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SUBJECT:

Supplement 1 to FAR and GSAM Class Deviation - Public Buildings Service Limited Authority for Ten (10) Year Operations and Maintenance Service Procurements When Using Schedules

1. Purpose.

The purpose of Supplement 1 to Class Deviation CD-2021-01 is to include additional guidance as a result of the revised [Partnership Agreement](#) between the U.S. Small Business Administration (SBA) and U.S. General Services Administration (GSA) for the 8(a) Business Development (BD) Program, effective June 23, 2022 (Partnership Agreement).

2. Background.

Since the issuance of CD-2021-01, the SBA and GSA have entered into a revised Partnership Agreement, which provides additional guidance on single-award blanket purchase agreements (BPAs) under the Federal Supply Schedules (FSS) that are accepted into the 8(a) BD Program.<sup>1</sup> Under the Partnership Agreement, for such BPAs, “8(a) acceptance is not required for orders, provided the single-award BPA was awarded competitively and was itself accepted into the 8(a) program for a term that does not extend past a date that is the firm’s graduation date plus five years.”

3. Change.

With issuance of this Supplement 1, Paragraph iii., bolded below, is added to Section 4, Limitations, of CD-2021-01:

**iii. 8(a) Program Requirements - In accordance with the June 23, 2022 Partnership Agreement between the U.S. Small Business Administration (SBA) and GSA for the 8(a) Business Development (BD) Program, a single-award BPA that is awarded competitively and is itself accepted**

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<sup>1</sup> Additional information regarding eligibility and procedures specific to the FSS can be found in Section III.A.3.c. (“Federal Supply Schedules (FSS), including FAR Subpart 8.4 BPAs”) of the Partnership Agreement.

**into the 8(a) Program, must not be for a term that extends past a date that is the firm's 8(a) BD Program graduation date plus five years.**

All other content of CD-2021-01, including the FAR and GSAM Deviation Line-In/Line-Out text remains unchanged and in effect.

Attachment A of this Supplement provides an illustrative example of the 8(a) Program Requirements for FSS BPAs as well as sample RFQ eligibility language.

4. Point of Contact. Questions regarding this class deviation may be directed to [GSARPolicy@gsa.gov](mailto:GSARPolicy@gsa.gov).

5. Attachments.

[Attachment A](#) - 8(a) FSS BPA Requirements Example and Sample RFQ Eligibility Language

## Attachment A - 8(a) FSS Single-Award BPA Requirements Example and Sample RFQ Eligibility Language

### 8(a) FSS Single-Award BPA Requirements Example

An example<sup>2</sup> of the requirements provided in Section 4.iii. of CD-2021-01, as modified by Supplement 1, is illustrated in the below table, which compares two firms with two different 8(a) BD Program graduation dates:

	Firm A	Firm B
8(a) BD Program graduation date:	12/1/2024	12/1/2029
Single-award BPA term cannot extend past this date:	12/1/2029	12/1/2034
<b>Example:</b> A single-award BPA is awarded on 12/1/2023. The <u>maximum</u> term allowed is:	6 years (12/1/2023 - 11/30/2029)	10 years (12/1/2023 - 11/30/2033)

- Firm A would only be eligible for a BPA term of 6 years (12/1/2023-11/30/2029) because their 8(a) BD Program Graduation Date PLUS 5 years is 12/1/2029.
- Firm B would be eligible for a 10 year BPA term since their 8(a) BD Program Graduation Date PLUS 5 years extends beyond the term of the planned BPA.

### Sample RFQ Eligibility Language

The following is *sample, optional* language that a CO can utilize to include 8(a) eligibility criteria for an 8(a) FSS BPA RFQ. It places vendors on notice that in order to submit an eligible quote, their 8(a) BD Program Graduate Date *PLUS 5 years* must be at least for the entire term of the BPA, otherwise, the firm will not be considered eligible for award.

### **Requirements for Submission of an Eligible Quote (Qualifications for Award Eligibility)<sup>3</sup>**

Offerors with any of the following conditions will not be considered eligible for award and will be eliminated from further consideration:

- (1) GSA Schedule contract does not contain the required SINS identified in the RFQ of *XXXXX, XXXXXX, XXXXX [CO insert relevant SINS]*, OR
- (2) GSA Schedule contract ultimate 20-year expiration date is prior to *XX/XX/XXXX [CO insert end date of anticipated last option period, inclusive of potential 6 months extension]* without a continuous contract in place, OR
- (3) 8(a) Business Development Program graduation date *PLUS 5 years* is prior to *XX/XX/XXXX [CO insert end date of anticipated last option period, inclusive of potential 6 months extension]*, OR
- (4) Quote does not contain a "Self-Certification Statement" regarding rates,  
OR

<sup>2</sup> This example reflects the requirements of a *competitively awarded, single award BPA*. For 8(a) orders (sole-source and competitive) directly against a GSA Schedule contract, please refer to Section III.A.3.c, **Federal Supply Schedules (FSS), including FAR Subpart 8.4 BPAs**, of the [Partnership Agreement](#)

<sup>3</sup> This sample was derived from language in Section 2.3 of the [PBS MAS Facilities Maintenance RFQ template](#). The sample 8(a) eligibility criteria is highlighted in paragraph (5).

(5) The offer's representations, certifications or other statements indicate the offeror is not eligible for award at the quote due date and time of this RFQ.



GSA Office of Governmentwide Policy

12/2/2020

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SUBJECT:

FAR and GSAM Class Deviation - Public Buildings Service  
Limited Authority for Ten (10) Year Operations and  
Maintenance Service Procurements When Using Schedules

1. Purpose. This memorandum approves an updated class FAR and GSAM deviation to provide Public Buildings Service (PBS) limited authority to establish Blanket Purchase Agreements (BPAs) and task orders for operations and maintenance requirements related to fixed equipment in GSA controlled buildings with contract terms up to ten (10) years.
2. Background. On November 16, 2018, the Senior Procurement Executive approved Class Deviation CD-2019-01 entitled "FAR and GSAM class deviation - Limited Authority for Ten (10) Year Operations and Maintenance Service Procurements When Using Schedule 03-FAC." Since the approval of this class deviation the Federal Acquisition Service consolidated the Federal Supply Schedules from twenty-four (24) to one. This consolidation requires that the prior deviation be updated. This update takes the form of a new deviation.

The MAS is now organized into large categories, subcategories, and Special Item Numbers (SINs). One of the large categories within the MAS is the Facilities Category. The Facilities Category encompasses most of the items previously offered under the 03FAC, Facilities Maintenance and Management Schedule. The remaining items, such as Order-Level Materials (SIN OLM), Ancillary Repair and Alterations (SIN ANCRA), and Ancillary Supplies and Services (SIN ANCILLARY) are now offered under MAS Miscellaneous Category in the Complementary SINs subcategory.

Based on the change to the GSA FSS program, class deviation 2019-01 is being updated in the form of a replacement deviation to ensure PBS continued use of this limited authority.

Early results are very positive. By transitioning to orders under the FSS program, PBS is obtaining strong competition and saving money. Therefore, the duration of this limited authority is extended through November 30, 2025.

3. Applicability. This class deviation applies to PBS—
  - i. Single-award BPAs for operations and maintenance requirements related to fixed equipment (e.g., heating, cooling, ventilation, electrical, elevator, escalator and fire safety systems, components and devices) in GSA controlled buildings that—
    - (1) Are established against the MAS - Facilities Category.
    - (2) Utilize MAS - Miscellaneous - Complementary SINs subcategory, in conjunction with or in support of, these single-award BPAs.
  - ii. Task orders issued against the single-award BPAs described in paragraph (i) of this section.
4. Limitations. The following limitations apply:
  - i. Single-award BPAs and task orders issued against these single-award BPAs shall not exceed 10 years, including all option periods (e.g., a single-award BPA with a one year base period and nine one-year option periods).
  - ii. The period of performance of a single-award BPA may not extend beyond the period of performance of the Schedule contract against which it is established. Contracting officers shall ensure that appropriate language is included in requests for quotes for this limitation (e.g., continuous Schedule contracts; see guidance in FAS Policy and Procedure ([PAP](#)) 2016-04, *Guidelines for the Award of Continuous Multiple Award Schedule (MAS) Contracts*, the [MAS Desk Reference](#) and the [Vendor Support Center Contractor Continuity Webpage](#)).
5. Authority. This class deviation is issued under the authority of FAR 1.404 and GSAM 501.404. This class deviation is issued following consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).
6. Effective Date/ Expiration Date. This class deviation is effective upon signature and remains in effect until November 30, 2025.
7. Cancellation. Class deviation CD-2019-01 is canceled as a result of this memorandum.

8. Point of Contact. Questions regarding this class deviation may be directed to [GSARPolicy@gsa.gov](mailto:GSARPolicy@gsa.gov).

Attachments.

Attachment A - Deviation Line-In/Line-Out Text

Attachment B - PBS Business Case

**Class Deviation CD-2021-01  
Attachment A  
Deviation Line-In/Line-Out Text**

See below for applicable baseline

- Additions to baseline made by proposed rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by proposed rule are indicated by ~~strikethroughs~~
- Five asterisks (\* \* \* \* \*) indicate that there are no revisions between the preceding part and/or subpart, and following section
- Three asterisks (\* \* \*) indicate that there are no revisions between the material shown within a section or subsection

**FAR Baseline: FAC 2021-02 effective 11/23/2020**

Part 8—Required Sources of Supplies and Services

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Subpart 8.4—Federal Supply Schedules

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8.405 Ordering procedures for Federal Supply Schedules.

\* \* \*

8.405-3 Blanket purchase agreements (BPAs).

\* \* \*

(d) *Duration of BPAs.* (1) Multiple-award BPAs generally should not exceed five years in length, but may do so to meet program requirements.

(2) **[Except for BPAs under General Services Administration Acquisition Manual (GSAM) 508.405-3, a]**A single-award BPA shall not exceed one year. It may have up to four one-year options. See paragraph (e) of this section for requirements associated with option exercise.

(3) Contractors may be awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance.

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**GSAM Baseline: Change 118 effective 11/04/2020**

Part 508—Required Sources of Supplies And Services

Subpart 508.4—Federal Supply Schedules

\* \* \* \* \*

**[508.405 Ordering procedures for Federal Supply Schedules.**

**508.405-3 Blanket purchase agreements (BPAs)**

**(a) *Duration of single-award BPAs.* Public Buildings Service (PBS) single-award BPAs established against the Multiple Award Schedule (MAS) - Facilities Category for operations and maintenance requirements related to fixed equipment (e.g., heating, cooling, ventilation, electrical, elevator, escalator and fire safety systems, components and devices) in GSA controlled buildings shall not exceed 10 years, including all option periods.**

**(1) The limitation in paragraph (a) of this subsection applies to PBS single-award MAS BPAs for operations and maintenance requirements related to fixed equipment in GSA controlled buildings that utilize the MAS - Miscellaneous - Complementary SINs subcategory, in conjunction with, or in support of, the single-award BPAs authorized in paragraph (a) of this subsection.]**

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Part 517— Special Contracting Methods

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Subpart 517.2— Options

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517.204 Contracts.

(a) Telecommunication contracts may not exceed 10 years per GSA Order ADM P 5450.39D, GSA Delegations of Authority Manual.

(b) Public utility contracts are limited to 10 years (40 U.S.C. 501(b)(1)(B)).

**[(c) Task orders under Public Buildings Service (PBS) single-award Blanket Purchase Agreements (BPA) established against the Multiple Award Schedule (MAS) - Facilities Category for operations and maintenance requirements related to fixed equipment (e.g., heating, cooling, ventilation, electrical, elevator, escalator and fire safety systems, components and devices) in GSA controlled buildings shall not exceed 10 years, including all option periods.**

**(1) The limitation in paragraph (c) of this section also applies to single-award BPA task orders for operations and maintenance requirements**

**related to fixed equipment in GSA controlled buildings that utilize the MAS - Miscellaneous - Complementary SINS subcategory, in conjunction with, or in support of, the single-award BPAs and task orders authorized under paragraph (c) of this section.]**

**[(d)](e) *Requests to exceed 5-year limitation.*** A deviation request to exceed the 5-year limitation specified in FAR 17.204(e) must provide all the following information:

(1) Clearly explain the contract(s) and organization(s) covered by the request.

(2) Support the need for and reasonableness of the extension. Consider factors such as the following:

(i) The results of market research.

(ii) Stability of the requirement(s).

(iii) Benefits to the Government.

(iv) Use of a performance-based contracting approach.

(v) Availability of funds to cover estimated cancellation costs as well as costs for the first contract period.

(vi) Customary commercial practice.

(vii) Mechanisms to adjust for economic fluctuations.

**[(e)](d) *Approval authority.*** Deviation requests to exceed the 5-year limitations specified in FAR 17.204(e) must be approved by—

(1) The head of the contracting activity for individual contracts; and

(2) GSA's Senior Procurement Executive for classes of contracts.

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