

August 21, 2007

FAS INSTRUCTIONAL LETTER 2007-01

MEMORANDUM FOR ALL FAS ACQUISITION ACTIVITIES (QV DISTRIBUTION LIST)

FROM: MICHAEL S. SADE
ASSISTANT COMMISSIONER
OFFICE OF ACQUISITION MANAGEMENT (QV)

SUBJECT: The Multiple Award Schedule (MAS) Express Program: Expedited Procedures for Financial Responsibility Determination and Award

1. Purpose. One of the purposes of this Instructional Letter is to set forth the criteria for determining financial responsibility for offers submitted under the Multiple Award Schedule (MAS) Express Program and to provide additional guidance in meeting the requirements of FAR 9.104-1, General Standards.

Additionally, this Instructional Letter permits an offer received under the MAS Express Program to be accepted and awarded as a MAS schedule contract without price discussions, in accordance with 52.212-1(g), Instructions to Offerors--Commercial Items, when the Procuring Contracting Officer (PCO) determines that the pricing in the initial proposal is equal to or better than the Most Favored Customer (MFC), and proposed prices are determined to be fair and reasonable.

2. Background. Federal Acquisition Service (FAS) is introducing the MAS Express Program, an expedited offer review process, developed to address the Administrator's objective of awarding a MAS contract within 30 calendar days.

The MAS Express Program is a pilot program that streamlines the evaluation process of MAS offers. The initial pilot program is for two years. The program will be open to those small and large firms submitting proposals for selected Special Item Numbers (SINs). The terms and scope of the pilot program may be changed during the pilot period as circumstances warrant.

The MAS Express Program will be enhanced through phases, and specific FAS guidance will be disseminated through Procurement Information Notices (PINs). This Instructional Letter provides the authority and general parameters for the MAS Express Program for our contracting offices.

Further program revisions to implement enhancements, expansion, updating core criteria, solicitations, clauses, etc. will be addressed through PINs.

3. Effective Date. Date of signature.

4. Termination Date. This Instructional Letter expires one year from the effective date unless canceled or extended.

5. Applicability. This Instructional Letter applies to all FAS contracting activities awarding MAS contracts.

6. Reference to Regulations. FAR 9.104-1, 52.212-1(g), and GSAM Subpart 538.2.

7. Instructions/Procedures.

A. Add the following as new paragraph (b) of GSAM 509.104-3, numbering the existing text as paragraph (a):

509.104-3(b): MAS Express Program Financial Responsibility Determination

(1) To participate in the MAS Express Program, the offeror must provide documentation of financial responsibility specific to the MAS Express Program with its offer, which is submitted to the Schedule Program Express Evaluation Desk (SPEED) Desk. The SPEED Desk conducts an initial review of the offer before forwarding the offer to the applicable Portfolio for further review. The specific criteria for the MAS Express Program are:

(i) Years the vendor has been in business: minimum two years;

(ii) Sales during the last two years: minimum of \$100,000 total (cumulative sales primarily or entirely commercial); and

(iii) Current ratio (current assets/current liabilities)¹: minimum 1.5 for all participating Schedules and SINs with one exception: Schedule 48, SIN 653 8 -- requires a minimum current ratio of 1.2.

The financial responsibility documentation will be reviewed by the Schedule Program Express Evaluation Desk (SPEED). Absent contrary information, offerors meeting the above criteria will be forwarded with a recommendation that the offeror be considered financially responsible. Only the offers meeting all of the criteria stated above will be eligible for the MAS Express Program. Failure to meet these criteria means that further review of financial responsibility is required, and the offer is not eligible for the MAS Express Program.

(2) Determining "financial" responsibility is only one element of a responsibility determination. In order to assist the PCO in making an overall responsibility determination, the SPEED Desk will:

(i) Conduct an initial EPLS review to check for integrity and ethics;

(ii) Confirm that the offer was submitted with an Open Ratings Past Performance Evaluation Report that reflects a positive and/or neutral rating.

(3) The PCO will perform a second EPLS check at time of award. The PCO will evaluate the firm's Open Ratings Past Performance Evaluation Report. The responsibility determination should also include the following:

(i) Determine if the offeror will be able to comply with the required or proposed performance schedule, taking into consideration all existing commercial and governmental business commitments.

(ii) Conduct a review of the firm's technical proposal (as applicable) to determine if the offeror has the necessary organization, experience, accounting and operational controls, and technical skills or the ability to obtain them.

(iii) Determine if the firm has the necessary production, technical equipment and facilities, or the ability to obtain them.

All other elements of determining responsibility remain as outlined in FAR 9.104.

b. Add the following as new paragraph (e) of 538.270.

538.270(e) A contract in the MAS Express Program may be awarded without price discussions. Procuring Contracting Officers may award without conducting price discussions when they have determined the pricing in the initial proposal is equal to or better than the Most Favored Customer (MFC), and proposed prices are determined to be fair and reasonable. The basis for the decision not to hold discussions will be specifically addressed in the Price Negotiation Memorandum (PNM).

[1]

For more information on "current ratio" see U.S. Chamber of Commerce website "Finance Toolkit" at http://www.uschamber.com/sb/business/P06/P06_7135.asp