Webinar – Opening Online Marketplaces to Government Micro Purchases

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Focus

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FEATURE COMMENT: U.S. Government To Award Billions Of Dollars In Contracts To Open Electronic Marketplaces To Government Customers—Though Serious Questions Remain

purchases from online commerce every year. The initial legislation that federal procurement communities small businesses that feared large electronic marketplaces

§ 836 of the NDAA for FY which bars misuse of sales dollars further below. Beyond that minimal however, Congress has left it to electronic marketplaces, and—has been no new regulatory billions of dollars in purchases.

Resources:
publicprocurementinternational.com
Panelists and Special Guest
Christopher Yukins  
George Washington University

- Initiative launched by Congress – to allow government users to purchase directly online (Sec. 846/NDAA-FY18, Pub. L. 115-91)
- GSA opted to focus on “commercial platforms” (GSA “Phase II” report, April 2019). Section 846 authorized to Simplified Acquisition Threshold ($250,000), but GSA limited to micro-purchases (up to $10,000)
- Congress said portal must agree not to use information “related to a product from a third-party supplier featured on the commercial e-commerce portal or the transaction of such product” for commercial purposes (Sec. 838/NDAA-FY19, Pub. L. 115-232, RFP C.8)
- “Proof-of-concept” for three years, with possible open season (GSA Solicitation (Sol.) #47QSCC20R0001 on beta.sam.gov, RFP C.5 & C.6). Platforms launch in 30 days (GSA 6/26/20 press release)
- Both goods and services (Q&A 1/10/20) – but see Att. 5 (draft user guide, as amended) barring services
- GSA expects spend data will “help with compliance in areas like AbilityOne, small business, and supply chain risk management” (GSA 6/26/20 press release). Within 120 days, platforms must address AbilityOne and other mandatory sources, FAR 8.002 (Amended RFP & Statement of Objectives).
- Offers could be vetted by Federal Acquisition Security Council for cybersecurity concerns (GSA Sol.-cover letter)
- Estimated $6 billion marketplace (of $500 billion annual U.S. procurement)
Supply chain immunity is needed to respond to pandemic events

Transparency between suppliers and customers is needed for agile responses

Resilience also requires visibility of demand and supply disruptions

Avoiding “the tragedy of the commons” is a function of strong centralized planning

Past performance is key to establishing trusted sources of supply

User knowledge is key to success of electronic platforms

Federal Acquisition Regulation (FAR 13.201) requires user training

Purchasers must:

- Ascertain user needs
- Research product capabilities
- Gather purchase alternatives
- Follow up with users to assure satisfaction
- Use tools for analysis – reviewing trends and possible improvement
- Remain pro-active in ensuring purchases further organization’s mission

Training demands assessment and development

- Assess existing learning platforms for micro-buyers
- Develop micro-learning and online learning mechanisms

Agencies’ preparation will take time
Andrea Patrucco
PSU/Florida International University

- GSA opted for “commercial platforms” -- not to enhance its own platform
- Opportunity: centralize supply and spend, and improve data collection and spend analysis
- U.S. states may adopt similar strategies, building on government-built e-procurement platforms
- Local governments less likely
  - Not simply “digitalization of the procurement process”
  - What is the real value of the technology?
- Real challenges for European implementation
  - E-marketplace opportunities challenged during COVID-19
Opening Online Marketplaces to Government Micro-Purchases
Questions for e-Commerce

• Limiting the scope of e-commerce platforms
• Fair and reasonable pricing?
• Country of Origin
• Organizational Conflict of Interest, Gate-keeping, Market Integrity
• DHS Report on e-Commerce, Executive Order
• Dual Procurement Universes
Questions for e-Commerce, con’t

• Other Government requirements – AbilityOne?
• Supply chain issues like counterfeit products, Kaspersky, and Huawei
• Post-facto forensics
• Ownership and use of transactional data
• Intellectual Property/Platform Provider Accountability
• Metrics, how is success measured?
Audience Questions
• Why is this initiative important, if government users may already use government purchase cards to buy from online commercial platforms such as Amazon?
Audience Question

- In the conference report for the 2017 NDAA, Congress identified healthcare and IT as two industries that may be ill-suited for this type of purchasing model. From a healthcare perspective, COVID-19 has brought to light how easy it can be to price-gouge legitimate products, or to come to market with counterfeit products when working outside of the established, commercial healthcare distribution chain. **In an industry where lives are on the line, how would you propose ensuring that the healthcare supply chain remain secure and legitimate in this type of marketplace?**
Background on Supply Chain Integrity

• “E-commerce platforms represent ideal storefronts for counterfeits…and provide powerful platform[s] for counterfeiters and pirates to engage large numbers of potential consumers.”
  • Organisation for Economic Cooperation and Development
• As the marketplace establishes commerce between distributor and the government (not the marketplace as the seller) is a seller with a Multiple Award Schedule Contract required to abide by the terms and conditions of its MAS or is the transaction designated as open market by virtue of it being under the micro purchase threshold? GSA goes to great lengths to maintain the latter as the answer for portal transactions. However, that is inconsistent with the way MAS contract holders conduct business today where 95% of transactions are under the micro purchase threshold. Further, GSA schedule administrators maintain that all transactions conducted on the federal procurement card to be a “contract sale”.
GSA Response Regarding Relationship to Multiple Award Schedule Contracts

• Offeror question: “Is it safe to assume that this new procurement/Commercial e-Marketplace Acquisition is the same as GSA schedule contracts but on a GPC [Government Purchase Card] only level. Or please expand on the difference?”

• GSA Answer: “No, this is a separate procurement and not affiliated with the GSA Schedules program. The Commercial Platforms initiative is not intended to replace existing government purchasing channels. The ordering guidance issued as part of the solicitation for implementation of the initial proof of concept emphasizes and addresses relevant sources of supply to minimize impact on existing acquisition programs.”
Conclusion

Materials and a recording of this program will be posted on www.publicprocurementinternational.com