

## CLIENT ALERT

### GAO Rejects Agency's Attempt to Award an FSS BPA Under Multiple Schedule Contracts

January 6, 2020

In *NCS Technologies, Inc.*, GAO sustained a post-award protest challenging the Social Security Administration's award of a Blanket Purchase Agreement (BPA) under General Services Administration (GSA) Federal Supply Schedule (FSS) No. 70 for IT equipment and installation services. The solicitation contemplated an award pursuant to FAR section 8.405-3 (which details FSS ordering procedures) against a vendor's applicable FSS contract. The awardee's quotation listed its existing FSS contract, which would end about 18 months earlier than the BPA to be awarded, and asserted it was in the process of obtaining a new FSS contract before award. Although the awardee received its new FSS contract before final quotation revisions for the BPA and the agency independently discovered it in GSA's electronic elibrary system, the awardee never revised its quotation to identify the second FSS contract.

GAO concluded that award on the basis of the existing FSS contract violated FAR 8.405-3(d)(3)'s requirement that the FSS contract supporting a BPA must be in effect or carry the option of being extended through the entire life of the BPA. To obviate this problem, the agency argued that it had awarded the BPA against both of the awardee's FSS contracts; GAO rejected this position as a factual matter, but also explained the agency's argument was legally prohibited because the language of FAR 8.405-3 and GSA's "Continuous Contracts" policy require that a BPA be awarded against only one FSS contract.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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