



FAR FACTS
SEASON 2023, EPISODE FIVE
FAR PARTS 8, 38, 39, AND 51

1. FAR Part 8 sets out the priorities for use of certain mandatory sources, such as the Federal Prisons Industry (FPI) and the AbilityOne Program. **FAR 8.002.**
2. The Government may only use the GSA Federal Supply Schedule Program (FSS) to procure commercial items (supplies or services) offered under a contractor's FSS contract at firm fixed, labor hour, and/or time and materials pricing. **FAR 8.404.** Firm fixed price orders should be used to the maximum extent practicable. **FAR 8.404(h)(2).**
3. **FAR Part 8.4** only governs GSA procurement practices as it relates to purchases under the GSA Federal Supply Schedule Program.
4. Contracting Officers are permitted to "set aside" orders for small businesses under the GSA Federal Supply Schedule Program. **FAR 8.405-5.**
5. Under certain circumstances, a Government buyer may add items to an FSS order that is not offered under a contractor's FSS contract. **FAR 8.402(f).** These items are commonly known as an "Open Market" items.
6. Pricing offered under a FSS contract has already been determined as "fair and reasonable" at the time of award. **FAR 8.404(d).** However, Contracting Officers are permitted and, under certain circumstances, required to request further discounts during the negotiation of FSS blanket purchase agreements (BPA) or orders. **FAR 8.404(d) and 8.405-4.**
7. GSA issues requests for quotes (RFQs) under the FSS Program through the electronic GSA e-Buy system. **FAR 8.402(d)(1).**
8. All FSS RFQ exceeding the simplified acquisition threshold (that don't require a statement of work) must be either (i) posted on GSA e-Buy or (ii) sent to a sufficient number of offerors to reasonably ensure that a government buyer will receive proposals from at least 3 contractors. **FAR 8.404-2.**
9. RFQs for services requiring a statement of work are required to contain evaluation criteria (**FAR 8.405-2(c)**) and must be provided to any contractor who requests a copy of it (**FAR 8.405-2(c)(4)**).
10. **FAR 8.405-3(a)(3)** states that preference should be given to establish multiple-award BPAs rather than single-award BPAs.
11. An ordering activity may award a BPA or order on a sole source or limit source basis if it can demonstrate that (i) there is an urgent or compelling need, (ii) only one source is capable of providing the service or supply, or (iii) the new work is a "logical follow-on" to work previously subject to the ordering procedures set forth in **FAR 8.404. FAR 8.405-6(a).**

12. Ordering agencies are responsible for terminating BPAs or orders. All such terminations are required to be reported to GSA. **FAR 8.406-4 (a)(1)**. Only GSA is permitted to terminate an FSS contract.
13. Ordering agencies are required to complete past performance evaluations of FSS orders on an annual basis. **FAR 8.406-7**.
14. The FPI is a wholly owned Government corporation of the District of Columbia. **FAR 8.601(a)**. Supplies manufactured and services performed by FPI are listed in the FPI Schedule which can be found at www.unicor.gov. **FAR 8.601(d)**.
15. The AbilityOne Program was once called the Javits-Wagner-O'Day (JWOD) Program.
16. The AbilityOne Program identifies non-profit agencies such as the National Institute for the Blind (NIB) and SourceAmerica as mandatory sources for certain supplies and services identified on a certain "Procurement List." **FAR 8.704; FAR 8.705**.
17. The Government's mandate to use the FPI or Ability One Programs is not absolute. Purchase exceptions for FPI are set forth at **FAR 8.605**. Purchase exceptions for AbilityOne are set forth at **FAR 8.706**.
18. GSA has delegated all authority to procure medical supplies under the FSS Program to the Department of Veterans Affairs. **FAR 38.000 and FAR 38.101(d)**.
19. The requirements of **FAR Parts 5, 6, and 19** are applicable at the acquisition planning stage of a new FSS contract solicitation but generally do not apply to orders or BPAs issued under an FSS contract. **FAR 38.101(e)**.
20. When acquiring information technology (IT) services, the Government must not describe any minimum experience or educational requirements for proposed contractor personnel, unless the CO determines the needs of the agency cannot reasonably be met without such requirements or the use of other than a performance based acquisition is needed. **FAR 39.104**.
21. Inclusion of Privacy Act provisions is only required for contracts for (i) information technology which require security of IT, and/or (ii) the design, development or operation of a system of records using commercial information technology services or information technology support services. **FAR 39.105**.
22. **FAR 39.2** only applies to procurement of ICT (hardware, software, telecommunications, or webpage-based development services) as defined in section 508 of the Rehabilitation Act of 1973. **FAR 39.201**.
23. Section 508 accessibility standards and detailed procurement guidance governing the procurement of ICT can be found at www.section508.gov. **FAR 39.201(b)**.
24. Under certain circumstances, the Government can authorize a prime contractor to make purchases from subcontractors under the terms and conditions of the subcontractor's GSA Federal Supply Schedule contract. **FAR 51.103**.

25. Prime contractors purchasing supplies or services from a subcontractor's FSS Contract in accordance with FAR Part 51, must include the following in the Purchase Order issued to the subcontractor:

- A copy of the authorization received from the Government permitting the prime to order supplies or services from the subcontractor's FSS contract; and
- The following statement: "This order is placed under written authorization from [INSERT NAME OF GOVERNMENT AGENCY] dated [INSERT AUTHORIZATION DATE]. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern."

FAR 51.103(a)

26. Subcontractors must treat any subcontract/order issued by a prime contractor under **FAR 51.103** as if it is from the Government under its FSS Contract; that is, the subcontractor must pay a GSA FSS industrial funding fee based upon the amount of the order.