



GENERAL SERVICES ADMINISTRATION

[Notice-QP-2018-03; Docket No. 2018-0002; Sequence No. 12]

**Request for Information from Platform Providers of
Commercial e-Commerce Portals**

AGENCY: Office of Enterprise Strategy Management, General Services Administration (GSA).

ACTION: Request for information.

SUMMARY: The General Services Administration (GSA) is soliciting information from the *providers* of commercial e-Commerce Portals in order to complete Phase II of the requirements enacted in Section 846 of the National Defense Authorization Act (NDAA) for Fiscal Year 2018, Procurement through Commercial e-Commerce Portals. Note: A separate RFI is posted for suppliers who sell products through commercial e-commerce portal. Throughout the design of this program, GSA and the Office of Management and Budget (OMB) have emphasized open and ongoing engagement. The questions in this RFI are intended to continue the dialogue and to allow GSA and OMB both to draft the Phase II report (due to Congress in March 2019) and to move towards phased implementation later in 2019.

DATES: Interested parties may submit written comments to www.regulations.gov by July 20, 2018. GSA is also hosting its second modified town-hall style public meeting. This

meeting is in furtherance of Phase II on June 21, 2018, at 8:30 a.m. Eastern Standard Time. Further Information for the public meeting may be found on the Commercial Platform Interact group page on <https://interact.gsa.gov/group/commercial-platform-initiative> and in the Federal Register notice (83 FR 25004) published on May 31, 2018.

ADDRESSES: Submit comments identified by "Request for information from Platform Providers of Commercial e-Commerce Portals", by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments by searching for "Request for information from Platform Providers of Commercial e-Commerce Portals". Select the link "Comment Now" and follow the instructions provided at the "You are commenting on" screen. Please include your name, company name (if any), and "Request for information from Platform Providers of Commercial e-Commerce Portals", on your attached document.

- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, 2nd Floor, ATTN: Ms. Mandell, Washington, DC 20405-0001.

Instructions: Please submit comments only and cite "Request for information from Platform Providers of Commercial e-Commerce Portals" in all correspondence

related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Jasmine Schaaphok at *jasmine.schaaphok@gsa.gov*, or 571-330-3941, for clarification of content and submission of comment. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite "Request for information from Platform Providers of Commercial e-Commerce Portals".

SUPPLEMENTARY INFORMATION:

I. Background

The General Services Administration's (GSA) mission is to deliver value and savings in real estate, acquisition, technology, and other mission-support services across Government. For decades, GSA has provided access to commercial products through a number of channels including GSA Advantage!, GSA eBuy, GSA Global Supply, and the Federal Supply Schedules.

GSA has long been focused on improving the acquisition of commercial items. Throughout its history, GSA has sought to leverage the best available technology to help agencies shorten the time to delivery, reduce administrative cost, make compliance easier, be a strategic thought leader and

supplier of choice across the Federal Government, and be a good partner to industry. Today, the best available technology includes commercial e-commerce portals.

The National Defense Authorization Act (NDAA) for Fiscal Year 2018, Section 846 Procurement Through Commercial e-Commerce Portals, directs the Administrator of the GSA to establish a program to procure commercial products through commercial e-commerce portals. Section 846 language can be found at the following link - <https://interact.gsa.gov/group/commercial-platform-initiative>. Section 846 paragraph (c) instructs the "Director of the Office of Management and Budget, in consultation with the GSA Administrator and the heads of other relevant departments and agencies," to carry out three implementation phases. OMB and GSA completed Phase I, an initial implementation plan, in March of 2018.

The plan, found at <https://interact.gsa.gov/document/gsa-and-omb-phase-i-deliverable-attached>, discusses government and industry stakeholder goals and concerns, the different types of portal provider models currently prevalent in the commercial market, and areas where legislative change or clarification are required to enable flexibility in the full and effective use of commercial e-commerce portals in accordance with the goals of section

846. The plan also outlines deliverables anticipated to be completed in FYs 18, 19, and 20.

GSA is currently working on Phase II with the intent of delivering a proof of concept near the end of FY19.

Phase II of the legislation requires (excerpt below):

(2) PHASE II: MARKET ANALYSIS AND CONSULTATION.—Not later than one year after the date of the submission of the implementation plan and schedule required under paragraph (1), recommendations for any changes to, or exemptions from, laws necessary for effective implementation of this section, and information on the results of the following actions:

(A) Market analysis and initial communications with potential commercial e-commerce portal providers on technical considerations of how the portals function (including the use of standard terms and conditions of the portals by the Government), the degree of customization that can occur without creating a Government-unique portal, the measures necessary to address the considerations for supplier and product screening specified in subsection (e), security of data, considerations pertaining to nontraditional Government contractors, and potential fees, if

any, to be charged by the Administrator, the portal provider, or the suppliers for participation in the program established pursuant to subsection (a).

(B) Consultation with affected departments and agencies about their unique procurement needs, such as supply chain risks for health care products, information technology, software, or any other category determined necessary by the Administrator.

(C) An assessment of the products or product categories that are suitable for purchase on the commercial e-commerce portals.

(D) An assessment of the precautions necessary to safeguard any information pertaining to the Federal Government, especially precautions necessary to protect against national security or cybersecurity threats.

(E) A review of standard terms and conditions of commercial e-commerce portals in the context of Government requirements.

(F) An assessment of the impact on existing programs, including schedules, set-asides for

small business concerns, and other preference programs.

II. Written Comments

To assist in meeting the requirements associated with Phase II of the implementation, GSA and OMB are inviting portal providers to submit written comments. (A separate RFI has been issued for suppliers interested in selling through portals.) GSA is requesting those comments be submitted by July 20, 2018, which will allow the Government to take them into account as we are drafting our Phase II deliverable.

To facilitate comment submission, GSA and OMB have developed a number of questions grouped around five focus areas— spending trends, data standards, user experience, cybersecurity, and terms and conditions. These five areas are central to the analysis required for Phase II, e.g. the terms and conditions questions will further the analysis required in paragraph (E). A sixth focus area is intended to give respondents an opportunity to provide feedback that, in addition to the five areas described above, will help to inform GSA about the general scope, shape, and types of products that should be considered for a proof of concept. In accordance with the Phase I implementation

plan, the proof of concept is planned for launch in FY 2019.

Each question is intended to provide respondents with a general framework for commenting. These questions are not intended to be all-inclusive; other comments and observations are encouraged.

1. Spending Trends Questions

a. Spend Data: Over the past few months, GSA has participated in demos provided by portal providers, many of whom have expressed a willingness to share data on Government spend conducted through their platforms, i.e. purchases using government-issued purchase cards. Government spend data can be identified by looking at the first four digits of the government-issued purchase card. These four digits are: 5565 and 5568 (Mastercard); and 4486, 4614, and 4716 (Visa).

Would you be willing to share this spend data with GSA? Additionally, are you willing to share reports or dashboards demonstrating your analytics capabilities? (If yes, GSA will reach out separately to coordinate these requests.)

For those portal providers willing to share such information, the following categories of aggregated Government spend data from civilian agency and DoD buyers, over the last 3 years, would be particularly useful:

i. Spend by agency:

1. Total spend broken out by agency
2. Number of transactions by agency
3. Average order size by agency
4. Seasonality of purchasing (i.e. only at the end of an FY or are they spread out evenly throughout the year?)

ii. Spend by product category:

1. Categories/subcategories comprising 80% of the annual spend through your portal
2. Dollar value, count of transactions, count of suppliers, proportion of small and large supplier (count and dollars) for each category/subcategory
3. Agencies comprising 80% of the dollar value for each category/subcategory

iii. Spend outside the Contiguous US

(OCONUS) vs spend within the Contiguous US
(CONUS)

iv. Spend by socioeconomic / small business designations.

b. Additional considerations:

i. What taxonomy or taxonomies are used to sort products into suitable categories and subcategories, e.g. product service codes (PSCs) or North American Industry Classification System (NAICS) code? Please identify if the classification system is proprietary.

ii. What level and types of transactional data are made available to buyers?

iii. What functionalities and/or capabilities are available to buyers to analyze transactional data? Do you offer your commercial buyers the opportunity to develop customized data analytics capabilities?

iv. How do the pricing algorithms respond to sudden increases in demand?

v. The Government seeks to increase small business participation through this initiative. How might your platform aid in increasing small business participation?

What capabilities does your system have (or what would you need from GSA or other agencies) to track agency spending from the various socio-economic categories of small business (small disadvantaged business, women-owned small business, service-disabled veteran-owned small business, HUBZone small business) so that Government agencies can receive credit toward their agency socio-economic goals when they buy through your portal? Please explain.

vi. The Government seeks to promote compliance with mandatory sources (e.g. AbilityOne Program, Federal Prison Industries). What capabilities does your system have to track agency spending from these sources and limit "leakage" where purchases are made from non-mandatory sources?

vii. How are you shipping items to base locations / overseas? What are your labelling requirements / standards that you follow?

2. Data Standards:

- a. How do you use third party supplier data?
- b. What are your data protection / security practices for safeguarding both user and third-party supplier data?
- c. What are your standard terms and conditions with third-party suppliers and buyers regarding your use and their use of spend data?
- d. Is your platform capable of integrating information from the System for Award Management (www.sam.gov) to identify if a seller is a small business in accordance with FAR 19.303? If not, explain why. Would you be interested in testing capabilities with beta sam.gov?

3. User Experience and Program Design:

- a. GSA seeks to ensure that the government purchase card buyers have a simple and clear user experience when selecting products across multiple providers. How would you suggest we accomplish this? For example, how could GSA get to a single log-on across portals? Are there commercial analogs that achieve this purpose? If so, what, if any, drawbacks or obstacles do those

models present?

b. How are your supplier relationships structured?

What fees are charged? What do the onboarding and offboarding processes look like?

c. As a portal providers, do you have the capability

to participate in a 'punchout' type of ecommerce experience? Please explain.

d. Implementation and operationalization of this

program will entail the involvement of GSA, ordering agencies, portal providers, and third-party suppliers. GSA envisions its role primarily focusing on the following:

i. negotiating the contracts with the portal providers;

ii. working with stakeholders to shape the scope of product offerings, based on suitability, potential challenges in managing supply chain risk, and other considerations;

iii. working with agencies on effective use of protocols and safeguards to refine access to product offerings;

- iv. collecting, vetting and sharing data;
and,
- v. developing guidance in consultation with OMB
and training federal agencies in proper
competitive procedures through the portal;
and,
- vi. potentially validating the suppliers as
responsible business partners.

Do you agree with this description of roles
and responsibilities for GSA in optimizing
the user experience and the overall success
of the program? Are there key items
missing?

- e. The section 846 language stated both that all
existing procurement laws applied and that GSA
should strive to be consistent with commercial
practice. To reconcile these objectives, in Phase
I, GSA only proposed legislative changes
necessary to reach program implementation,
primarily around the nature of competition. For
purposes of Phase II, what additional legislative
changes GSA should consider proposing?

4. Cyber-Security Questions

GSA welcomes any insights that can be shared regarding how your platform addresses the following cybersecurity topics:

- a. Financial data theft/fraud
- b. Intellectual property theft/damage
- c. Distributed Denial of Service
- d. Man in the Middle Attacks
- e. Compliance with Information Security Standards
- f. Data storage
- g. Vulnerability assessments/monitoring
- h. Encryption
- i. Disaster Recovery
- j. Network monitoring

5. Standard Terms and Conditions

- a. General Roles and Responsibilities
 - i. For products sold by third parties on your portal, what, if any, responsibilities do you assume with respect to a sale?
 - ii. For what, if any, purposes do you consider the third party supplier selling on your portal to be your "subcontractor"?
 - iii. What, if any, of the value-added portal services and functionalities (e.g., order tracking, payment processing) have been

outsourced? Do you consider them subcontractors? If not, why not?

iv. Other than the suppliers selling on the portal and those providing value-added portal services and functionalities, are there entities that are considered subcontractors of your business? If yes, what functions do these entities perform for your business?

b. Order Tracking, Delivery and Issue Resolution

i. Describe how orders and delivery are tracked.

ii. Describe how issues are resolved (e.g., if the product doesn't arrive in a timely manner or needs to be returned). Identify who is responsible for resolving these issues when the sale involves a third party seller. Include information on customer/ordering official management throughout the process.

c. Payment

i. When a buyer makes a payment for a purchase on the portal, who processes the payment?

ii. What are the payment procedures?

iii. Are payments by Electronic Funds
Transfer allowed?

d. To assist GSA in determining the applicability of the Service Contract Act to a portal contract under the section 846 program, please advise of the type of work your employees would perform under such a contract.

e. Suitability of FAR Commercial Service
Requirements

i. Please address the extent you believe the following clauses/provisions are consistent with and/or are relevant to current, standard commercial practice for operating commercial e-commerce portals. If they are not consistent and/or relevant, please indicate what obstacles they would present if applied to the section 846 program. Conversely, if there are public policy reasons why any of these should be retained, please explain.

1. 52.212-4(a), Inspection and acceptance
2. 52.212-4(b), Assignment of claims
3. 52.212-4(g), Invoice
4. 52.212-4(k), Taxes

5. 52.212-4(n), Title
6. 52.212-4(q), Other compliances
7. 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards
8. 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award
9. 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns
10. 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside
11. 52.222-3, Convict Labor
12. 52.222-17, Nondisplacement of Qualified Workers
13. 52.222-35, Equal Opportunity for Veterans
14. 52.222-37, Employment Reports on Veterans
15. 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving

16. 52.232-29, Terms for Financing of Purchases of Commercial Items
17. 52.232-30, Installment Payments for Commercial Items
18. 52.242-5, Payments to Small Business Subcontractors
19. 52.212-3(t), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals
20. 52-212-4(f), Excusable Delays
21. 52.212-4(h), Patent Indemnity
22. 52.212-4(i)(4), Discount
23. 52.212-4(s), Order of precedence
24. 52.232-40, Providing Accelerated Payments to Small Business Subcontractors
25. 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items

f. Additional considerations:

- i. Are there different terms and conditions based on the country being served by a given commercial e-commerce portal?

ii. If you are not registered on www.sam.gov would you be willing to register? Why or why not?

iii. For your other commercial customers, do you offer ways to limit access to products on your platform for B2B customers who may not want access to your full catalog?

g. Copies of standard terms and conditions:

i. Please provide GSA with copies of your standard terms and conditions that apply to your suppliers?

ii. Please provide GSA with copies of your standard terms and conditions that apply to users (i.e. buyers)?

6. Proof of concept

As explained in the Phase I implementation plan, GSA intends to proceed with a proof of concept in FY 2019. What is your recommended vision for a proof of concept that would be both manageable and meaningful, including types of products offered?

Dated: June 11, 2018.

Laura J. Stanton,
Assistant Commissioner,
Office of Enterprise Strategy Management,
Federal Acquisition Service,
General Services Administration.

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