



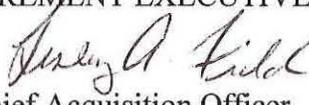
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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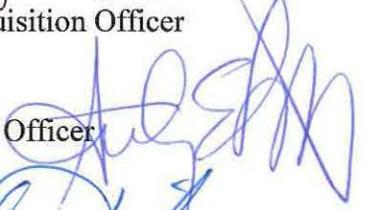
January 13, 2017

MEMORANDUM FOR

CHIEF ACQUISITION OFFICERS
SENIOR PROCUREMENT EXECUTIVES

FROM:

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Acting Federal Chief Acquisition Officer

Tony Scott 
Federal Chief Information Officer

Mikey Dickerson 
Administrator
U.S. Digital Service

SUBJECT:

Bringing Additional Software Developers into the
Federal Marketplace

The purpose of this memorandum is to help agencies bring additional talented software developers into the Federal Marketplace to supplement existing contractor talent and ensure robust support for projects that call for software development. Through the work of agencies and Chief Information Officers across government, more and more integrated product teams (IPTs) are using agile and other iterative methodologies to produce workable solutions within required timeframes.¹ While IT modernization is multi-dimensional and many projects involve other critical efforts – such as systems integration or migration to shared services or cloud solutions – the initiatives that require software design and development work have benefitted greatly from the improved investment manageability and lower risk of project failure that these methodologies enable.

Efforts to support the Federal Government's needs for agile development capabilities are being supported, in large part, through agencies' strategic use of the Federal Supply Schedules (Schedules), government-wide acquisition contracts (GWACs), and agency-wide vehicles, which provide efficient access to commercial software developers who are willing and able to become long-term contract holders and compete for work as requirements arise.² Equally important,

¹ While this memorandum generally discusses efforts involving the use of agile software development methodologies, it also may be applied to other iterative methodologies that are market tested.

² In 2015, GSA awarded the Agile Blanket Purchase Agreement under Schedule 70 so the Technology Transformation Service would have ready access to contract support for projects involving user-centered design, agile software development, modular contracting and DevOps, including the beta launch of a dashboard for the Federal Risk and Authorization Management Program (FedRAMP). In November 2016, the Department of Homeland Security (DHS) awarded the Flexible Agile Support for the Homeland (FLASH) IDIQ contract to support

progress is being made to simplify entry onto the Schedules³ and attract new participants to other government and agency-wide vehicles.⁴ In order to keep pace with the pressing demands for systems modernization, however, more must be done in parallel with these efforts to build the federal supplier base of talented software companies that know agile and other related risk-management software development methodologies.

This memorandum encourages agencies to pursue an acquisition management strategy that leverages existing government-wide and agency-wide acquisition vehicles while simultaneously employing techniques that make it easier for agencies to contract with qualified contractors that are not currently in the federal supplier base or have limited experience in the federal market. This memorandum highlights three techniques for attracting and providing easy access to new entrants: (1) using the new 8(a) Digital Service Initiative, (2) using the simplified acquisition procedures in FAR Subpart 13.5, and (3) developing a bidders list of prequalified entities with demonstrated capabilities in modern software development techniques. Each of these techniques can simplify and reduce transaction costs both for contractors and the Federal Government.⁵

Contracts awarded using these techniques may result in a larger number of individual contracts. By employing a management strategy that balances these efforts with continued use of enterprise contracts, however, agencies can fulfill the government's need to reach companies that are either underutilized or currently inaccessible to federal agencies while still enjoying the economic and administrative benefits of agency and government-wide solutions. Moreover, the experience gained by talented contractors who are accessed through these techniques can make them attractive candidates for on-ramping onto government-wide and agency-wide vehicles, where feasible and appropriate.

1. Acquiring digital services for software development services through the new 8(a) Digital Service Initiative

The Small Business Administration's (SBA) 8(a) program is the Federal Government's preeminent business development program to help small disadvantaged businesses learn the procurement process while simultaneously developing their business and technical skills. SBA, in collaboration with USDS, recently announced an initiative to enable expeditious procurement of digital services under the 8(a) program from vendors in the program with significant experience implementing modern technology and digital services that can meet current needs. The initiative clarifies that the Government will consider certain digital services requirements to be unique requirements that will allow procuring agencies which award these requirements

the department's needs for product managers, designers, engineers and developers that can develop products quickly with a better user experience.

³ Under the "Fast lane" initiative the lead-time for entry onto Schedule 70 has been reduced from many months to an average of 30-45 days and existing contractors can now negotiate modifications with GSA for new product offerings within 48 hours. Under its "Startup Springboard," talented vendors can offer alternative proof of their viability – as opposed to facing automatic exclusion of they fail to meet a two-year minimum corporate experience requirement.

⁴ During the planning of the FLASH IDIQ contract, DHS conducted "speed dating" during an industry day to help potential contractors find other development teams with which to partner.

⁵ While this memorandum focuses on software developers, agencies might similarly consider strategies to broaden the supplier base in other areas where there is considerable talent outside of the federal marketplace.

through the 8(a) program to be able to award contracts for additional development utilizing different acquisition strategies (to include non-8(a) strategies) without requesting release from SBA. For more information, go to https://techfarhub.cio.gov/do-IT/SBA_8a/.

2. Use of simplified acquisition procedures for commercial items

One of the barriers to bringing additional talented software companies into the federal marketplace is the complexity of doing business with the Federal Government. In order to attract new companies that are experts in developing and delivering software, agencies are encouraged to take advantage of measures available to simplify and streamline the acquisition and administration processes to focus on the rapid delivery of quality software solutions and modern technologies.

One immediate step that agencies can take is to increase consideration of the simplified procedures of FAR 13.5 which provide an easy and cost-effective way for agencies and businesses to transact. The simplified procedures of FAR 13.5 can lower barriers to entry for contractors unfamiliar with the federal contracting process in the following ways:

- FAR 13.5 awards are typically short in duration and tend to have smaller scopes, much like many agile and other incrementally-based approaches. In addition, FAR 13.5 processes involve fewer documentation requirements and procedural steps than the more formal and detailed procedures laid out in FAR Part 15.
- Because the simplified procedures must be used in conjunction with the commercial item policies and practices of FAR Part 12, resulting contracts must include terms and conditions that are reflective of customary commercial practice to the maximum extent practicable. This, in turn, increases the likelihood that the solicitation and resulting contract will be easier for a commercial vendor to understand and navigate based on their experience with commercial customers.

Use of FAR Part 13.5 is limited to acquisitions of commercial items.⁶ To qualify the acquisition as one for a commercial item, some agencies have identified the end product (i.e., the deliverable) to be the agile software development process and the delivery of working software⁷. Since agile software development services were invented and defined by the private sector and are offered and sold competitively in the commercial marketplace based on established market prices for specific tasks performed under standard commercial terms and conditions, the requirements would qualify as a commercial service as that term is defined in FAR Part 2, thus making it possible to consider the simplified procedures of FAR 13.5.

⁶ When the authority was first considered, a House report explained that “The purchase of a commercial item logically lends itself to simplified procedures because there exists a yardstick in the commercial marketplace against which to measure price and product quality and to serve as a surrogate for Government-unique procedures.” House Report No. 104-222 on H.R. 1670.

⁷ The focus on the delivery of working software is a key element of agile development services, as explained in the TechFAR, <https://playbook.cio.gov/techfar/>.

In order to lower barriers to entry, agencies are encouraged to consider use of FAR 13.5 for their commercial item acquisitions under \$7 million that are not made through task or delivery order contracts.⁸ If the agency decides instead to use Part 15 procedures, it can still leverage the benefits of FAR Part 12 by using the same approach of procuring the agile software development process. As an example, SBA recently issued a solicitation under FAR Parts 12 and 15 for agile software development services to redesign its main website, SBA.GOV, incorporating the commercial representations provided for in FAR 52.212-3. The attachment highlights language in SBA's solicitation that illustrates how the agency supported the acquisition of agile development services as a commercial item using the policies, provisions, and clauses of FAR Part 12.

For an additional example of how a solicitation has been shaped to acquire agile as a commercial item, see the request for quotations issued by GSA for the blanket purchase agreement on agile contracting, available at https://github.com/18F/ads-bpa/blob/18f-pages/assets/ADS_RFQ_Final.pdf (where the agency is seeking a repeatable process for the delivery of functional product and expects to accept a workable product).

Other agencies that have taken similar steps are encouraged to share the information with OFPP, USDS, or their agency Acquisition Innovation Advocate for posting on the Innovation Hallway (see below).

While this strategy can work well for many types of custom services that are readily performed in the commercial market, such as web design or agile development of citizen facing applications, this strategy should not be viewed as a one-size-fits-all solution. In particular, agencies must still consider whether the requirement involves a level of risk that makes it difficult or inappropriate to acquire services within the parameters of FAR Part 12. For instance, an agency could determine that the only way to acquire services at a fair and reasonable price is through a cost-reimbursement contract, such as in situations where the outcome is unknown. This could be the case, for example, in the development of software supporting high risk research and development projects, such as to support the operation of a cutting-edge satellite or a super computer, or where the agency is seeking to obtain a new government-unique coding language to strengthen its security posture.

3. Prequalification list

The Department of Defense's Digital Service and the U.S. Digital Service are planning to beta test an "agile marketplace" where Defense agencies can easily find software companies that have been prequalified based on their skill in agile methodologies but aren't necessarily doing business with the Federal Government currently. See <https://govtribe.com/project/other-transaction-consortium-for-digital-services-request-for-information>.

⁸ The Office of Administration in the Executive Office of the President took advantage of the procedures of FAR 13.5 to acquire agile software development services to support its work on "WhiteHouse.gov."

While getting on a list may appear to be a hurdle, a prequalification process that allows a contractor to demonstrate its capabilities to the government the same way it would for a commercial client might be an especially inviting gateway for a new entrant that is trying to establish its footing in the federal marketplace. A prequalification list can also be a powerful way to help agency components find qualified sources with specialized skillsets and save time in doing so.

Agencies will be provided with updated information after the beta testing has been completed and there is a clearer understanding of the feasibility of standing up a centrally managed prequalification process with rolling admission to the list.

Sharing Results & Continuing the Dialogue

This past summer, OMB launched the TechFAR Hub (<https://techfarhub.cio.gov/>) to serve as a one-stop source for practical tools and other industry best practices supporting digital services acquisitions. The Hub is being integrated into a larger Innovation Hallway on the Acquisition Gateway. We encourage agencies to share experiences with the techniques described above or other techniques on the Hub⁹ and recommend updates to the TechFAR as appropriate to promote awareness and consistent adoption of proven best practices. We also encourage members of the IPT to reach out to their agency's Acquisition Innovation Advocate with any ideas they may wish to test for building the federal supplier base of software development contractors.

General questions regarding this memorandum may be directed to Mathew Blum, Associate Administrator for Federal Procurement Policy (mblum@omb.eop.gov). Questions regarding applications of this memorandum to specific acquisitions may be directed to Traci Walker, Procurement Practice Director, USDS (twalker@omb.eop.gov). We look forward to working with agencies to maximize opportunities to bring in new contract talent into the federal marketplace and leverage the skills of our existing developers in meeting the government's digital service needs.

cc: Chief Information Officers
Technology Transformation Service, GSA

⁹ The Hub includes a "solicitation builder" that provides a step-by-step tool for creating an easy-to-understand statement of work or statement of objectives for agile development services. See <https://agile-solicitation-builder.apps.cloud.gov/>. It also includes a link to the Stack Exchange Acquisition Discussion Board that can be used to foster and follow discussion within the software development community around specific digital service acquisition issues. Go to <https://techfarhub.cio.gov/discuss-it/>.

**Acquiring Agile Development Services as a Commercial Item:
Example of Language Used in Solicitation and Statement of Objectives**

The table below highlights language that was included in the Small Business Administration’s solicitation and Statement of Objectives (SOO) for the redesign of SBA.GOV. The highlighted language was designed to support the acquisition of agile development services as a commercial item using the policies, provisions, and clauses of FAR Part 12, including:

- 52.212-2 (Evaluation – Commercial Items),
- 52.212-4 (Contract Terms and Conditions – Commercial Items), and
- 52.212-5 (Contract Terms and Conditions Required to Implement Statutes or Executive Orders).

The solicitation and SOO were developed consistent with the general principles and practices discussed in the TechFAR,¹⁰ which explains how existing regulatory flexibilities can be used to apply industry best practices in acquiring digital services.

For a copy of key provisions in SBA’s solicitation, go to the TechFAR Hub at <https://techfarhub.cio.gov/do-IT>. The table below summarizes the key provisions.

Subject	Language Used	Explanation	Reference
DEFINITIONS	<p>AGILE DEVELOPMENT/AGILE SOFTWARE DEVELOPMENT – A proven commercial methodology for software development that is characterized by incremental and iterative processes where releases are produced in close collaboration with the customer. This process improves investment manageability, lowers risk of project failure, shortens the time to realize value, and allows agencies to better adapt to changing needs.</p> <p>ACCEPTANCE CRITERIA – This is the set of conditions or criteria that the functional output of any agile User Story must meet. A Story is not considered</p>	<ul style="list-style-type: none"> • Make clear in definition of agile development that the practice is a proven commercial methodology. • Even though the CLINs may be built around the acquisition of agile development services and may not fully define how 	Sec. 1

¹⁰ <https://playbook.cio.gov/techfar/>

	<p>complete unless the acceptance criteria is met or fulfilled.</p> <p>DEFINITION OF DONE – The jointly agreed upon state in which a story is considered “finished” or “done.” This typically means that all acceptance criteria has been completed, tested, and verified, and the Product Owner has reviewed the functionality and accepted the story.</p>	<p>the final system will function as a contract deliverable, the definitions should reflect the results-oriented processes that the methodology is built on, including the acquisition of requirements in manageable increments.</p>	
SCOPE	<p>The agency intends to redesign its primary online property and build new web applications and digital services that provide end-to-end customer-centric experiences. These applications and services will be focused around delivering on the core mission of the agency: [describe]. The agency envisions using agile development services to deliver incremental value through iterative development. The scope of this SOO includes a range of agile development services, including project management, interaction design, user research, visual web design, technical design and development, as well as system operations and maintenance support.</p>	<ul style="list-style-type: none"> Describe the high level vision for the project and the types of agile development services that will be acquired to support it. 	3.1.1
CLIN FORMAT	<p>Base Period. CLIN 0001, FFP- The Contractor shall provide services for the Government in accordance with the State of Objective below and the incorporated Performance Work Statement (PWS)</p> <p>Iteration Period of Performance: 2 weeks – NTE 52 Weeks</p> <p>Price Per Iteration:</p>	<ul style="list-style-type: none"> Build the CLIN structure around buying iterations of agile development services. 	2.3

	<p>\$XXXXXX (Vendor Completes)</p> <p>Base Period of Performance: 12 months</p> <p>Firm Fixed Price (Completion): \$XXXXXX (Vendor Completes)</p> <p>[Note – Similar structure would be used for options]</p>		
BUILD MINIMUM VIABLE PRODUCTS	<p>Each iteration will produce a working function or feature, which provides value to the customer and can stand on its own. These features will compile into a Minimum Viable Product (MVP), which is required to be a stand-alone product, which is a functional piece of working software. These minimum viable products are only considered stand-alone and meet the definition of MVP when they are considered “shippable” or presentable to the customer by the Product Owner. An MVP is not a prototype.</p>	<ul style="list-style-type: none"> • Include language that explains what an iteration (which is what the CLINs are built around) must produce. 	3.4.3
ITERATIVELY BUILD THE SERVICE	<p>Deliverables shall be delivered in an incremental, fast-paced style of software development to reduce the risk of failure. The vendor shall deliver working software into users’ hands as early as possible to give the design and development team opportunities to adjust based on user feedback about the service. A critical capability is being able to automatically test and deploy the service so that new features can be added often and be put into production easily.</p>	<ul style="list-style-type: none"> • Emphasize the need for working software resulting from incremental development to reduce the risk of failure. 	3.4.4

<p>USE DATA DRIVEN DECISIONS</p>	<p>At every stage of a project, the contractor shall measure how well our service is working for our users. This includes measuring how well a system performs and how people are interacting with it in real-time. These metrics shall be reported to the Program Managers to find issues and identify which bug fixes and improvements should be prioritized. Along with monitoring tools, a feedback mechanism should be in place for people to report issues directly.</p>	<ul style="list-style-type: none"> • Include language on measurement to reinforce how accountability will be achieved even though the contract does not fully define how the final system will function as a contract deliverable. 	<p>3.4.6</p>
<p>DELIVERABLES</p>	<p>Deliverables are defined as the completion and acceptance according to the “Definition of Done” of the iterations completed, which are based on Agile Software Development methodology. This methodology defines the repeatable process of providing development and deployment services in small iterations lasting two weeks which must result in the delivery of usable software, data, or product, which have little to no inherent defects. Each iteration shall be deemed complete when the vast majority of stories contained in the iteration meet the Definition of Done and are accepted by the Product Owner. Each iteration shall be defined in the Performance Work Statement but should document how planning, requirement analysis (user story building), design, coding, testing, quality assurance, and documentation will all meet the jointly agreed upon “Definition of Done”. Deliverables shall include all source code, data, and software and software license.</p>	<ul style="list-style-type: none"> • Define the deliverables around completed iterations and make reference back to the definition of done and acceptance criteria in the definitions section to leverage the results-oriented methodologies of agile and reinforce accountable even though the contract does not fully define how the final system will function as a contract deliverable. 	<p>Sec. 4</p>