

BLANKET PURCHASE AGREEMENT UNDER FEDERAL SUPPLY SCHEDULE CANNOT EXPIRE BEFORE TOTAL POTENTIAL ORDERING PERIOD

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The Government Accountability Office (“GAO”) supported an agency decision and found a protester was ineligible for award where its Federal Supply Schedule (“FSS”) contract included too short a period of performance to cover the potential duration of the blanket purchase agreement (“BPA”). *KesselRun Corp. Travel Sols., LLC*, B-423311, April 10, 2025.

The General Services Administration sought the establishment of a BPA for travel and expense consulting services. The solicitation stated that the “ultimate completion date of the BPA is five years from the date of award if all options are exercised by the Government... The last option period ran from Feb. 7, 2009 to Feb. 6, 2030. But KesselRun’s FSS contract, through the end of the last option period, expired on January 10, 2030, and the contracting officer concluded that the firm’s quotation was not eligible for award. GAO agreed with the GSA.

When GAO sought the views of GSA, which administers the FSS program, GSA explained that the FSS contract against which the BPA would be issued must have sufficient options to cover the *entirety* of the period of performance of the BPA, *inclusive* of all potential options. The reason for this is that, unlike an order, a BPA cannot survive the expiration of the underlying FSS contract. (Note: FSS orders normally include a statement that if an *order* is issued prior to the end of the contract, the contractor must *complete* that order).

The protester cited no authority in law or regulation that supported its assertion that a period of performance can only be that which is obligated, in this case, the first year out of five possible years. The GAO found GSA’s exclusion of Kessel Run’s quotation from the competition on the basis that its FSS contract would not cover the period of performance of the BPA to be correct, and denied the protest.

Takeaway. If you compete for a BPA, make sure that the ending date of that BPA period of performance covers the entirety of the performance under any options, and does not extend beyond the ending date of your FSS contract. As noted in the Federal Acquisition Regulation, a BPA is not an actual contract. See FAR 16.702 (Basic agreement is *not* itself a contract, but merely contains clauses that will be required. Contracts based on such agreements must include a scope of work, and price, delivery and other applicable terms. Id.).

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