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Russia Concerns Negatively Impact GSA Schedule Contractors

& Scott Davidson, GCO Consulting Group

There is no shortage of news these days involving Russia. You would think that *U.S.* government contracting would be immune from these considerations. You'd be wrong. That's because yesterday, the Government removed Moscow-based Kaspersky Lab products from the General Services Administration's Schedule Program. Kaspersky provided products through resellers which held GSA Schedule 67 and 70 contracts for photographic equipment and related services, and IT services. As a company based in Moscow, Kaspersky came under scrutiny from the Government and was removed from the schedules "to ensure the integrity and security of U.S. government systems and networks" according to a GSA statement cited by Reuters.

According to the Government's System for Award Management (SAM), Kaspersky remains an active contractor and has not been suspended or proposed for debarment. Accordingly, agencies can still purchase Kaspersky products but not from Kaspersky's previously held schedule contracts. Curiously, GSA Advantage still shows Kaspersky products available through GSA schedule contracts through resellers. Many of these resellers are small businesses with different socioeconomic statuses.

There are a few lessons from this developing situation:

- This is a stark reminder that GSA schedule contracts are a privilege, not a right. GSA retains broad authority to remove contractors from its schedules. This authority is not absolute, however. Contractors that might find themselves in a situation like Kaspersky should evaluate whether the Government has acted according to its regulations and should assert and pursue claims if the Government has failed to provide the contractor with appropriate due process.
- Contractors should evaluate how current events can impact their contracts. Kaspersky, according to Reuters, asserts that it is "caught in the middle of a geopolitical fight where each side is attempting to use the company as a pawn in their political game." The Government's action concerning Kaspersky should cause contractors with ties to Russia to evaluate their own situations. If that evaluation reveals any situations that might give an agency concern, they should consider engaging in a proactive dialogue with their agency customers to address those concerns.
- Last, but certainly not least, is the reminder that GSA schedule contractors are required to abide by the Trade Agreements Act (TAA). The TAA requires contractors to provide either U.S.-made or designated country end products. Designated countries typically include those countries with

which the United States has negotiated trade agreements. Russia is not a designated country for TAA purposes.