

GSA ORDER

Subject: Amendment 2004-01, GSAR Case 2002-G505, Federal Supply Schedule Contracts—Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM).

2. Background.

GSA published the subject final rule in the Federal Register on May 18, 2004 (69 FR 28063) converting an interim rule to final rule with change. The General Services Administration Acquisition Manual is amended to implement Section 211 of the E-Government Act of 2002 (Pub. L. 107-347, December 17, 2002). Section 211 authorizes the Administrator of GSA to provide for the use by States or local governments of its federal supply schedules for automated data processing equipment (including firmware), software, supplies, support equipment, and services. State and local governments include any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education). Participation is voluntary on the part of Federal Supply Schedule contractors. Contractors would have the option of deciding whether they will accept orders placed by state or local government buyers. Similarly, there is no obligation on state and local government buyers to use the schedule.

3. Effective date. May 18, 2004.

4. Explanation of changes. These changes—

- a. Revise GSAM Parts 511, 516, 532, 538, 546, and 552 to delete the term “Corporate” Schedule and substitute it with “Consolidated Products and Services” Schedule.
- b. Revise paragraphs (d)(2) and (3) of the clause at 552.238-75, Price Reductions, to clarify that price reductions are not triggered for sales made to State and local government entities under Cooperative Purchasing.
- c. Revise paragraphs (b) and (c) of the clause at 552.238-78, Scope Of Contract (Eligible Ordering Activities), to define domestic and overseas delivery; and provide the contractor the option of providing supplies or services on an international basis; and paragraph (f) clarifies the contractor’s option in accepting

or not accepting orders from activities outside the Executive Branch of the Federal Government.

- d. Revise paragraph (a)(1) of the clause at 552.238-79, Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing, to clarify that both contracts and Blanket Purchase Agreements (BPAs) established under Cooperative Purchasing are separate contracts; and paragraph (a)(3) clarifies that State and local government entities may add terms and conditions other than those required by statute, ordinance, regulation, or order.

5. Filing instructions. Remove and insert the following pages to the GSAM:

Remove pages

Insert pages

511-1 and 511-2

511-1 and 511-2

516-1 and 516-2

516-1 and 516-2

532-1 thru 532-4

532-1 thru 532-4

538-1 thru 538-4

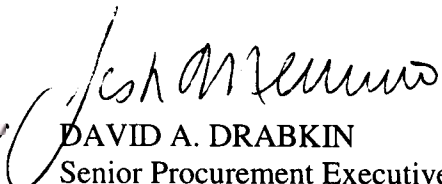
538-1 thru 538-4

546-1 and 546-2

546-1 and 546-2

552-15 and 552-16
552-39 thru 552-42

552-15 and 552-16
552-39 thru 552-42

For 
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General Services Administration

PART 511—DESCRIBING AGENCY NEEDS

511.001 Definitions.

“Dual systems” mean the use of both inch-pound and metric systems. For example, an item is designed, produced, and described in inch-pound values with soft metric values also shown for information or comparison purposes.

“Hard metric” means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently expressed in the metric system of measurement.

“Hybrid systems” mean the use of both inch-pound and hard metric values in specifications, standards, supplies, and services; e.g., an engine with internal parts in metric dimensions and external fittings or attachments in inch-pound dimensions.

“Metric system” means the International System of Units of the International Bureau of Weights and Measures. The units are listed in Federal Standard 376A, “Preferred Metric Units for General Use by the Federal Government.”

“Soft metric” means the result of mathematical conversion of inch-pound measurements to metric equivalents in specifications, standards, supplies, and services. The physical dimensions are not changed.

511.002 Policy.

511.002-70 GSA Metric Program.

(a) FAR 11.002(b) and GSA Order, GSA Metric Program (ADM 8000.1B), establish policy for using the metric system in procurements. Consistent with this policy, use specifications and purchase descriptions stated in metric units of measurement whenever metric is the accepted industry system.

(b) Whenever possible adopt the following:

(1) Internationally or domestically developed voluntary standards that use metric measurements.

(2) Commercially developed metric specifications.

(c) If metric is not the accepted industry system, use specifications and purchase descriptions stated in soft metric, hybrid, or dual systems during transition. Replace these with hard metric measurements as soon as practical.

(d) For an industry in transition to metric, the head of each Central Office Service responsible for nationwide programs must develop policies promoting and encouraging the use of soft metric, hybrid, or dual systems.

(e) *Construction*: For construction of Federal facilities, you may use specifications for concrete masonry units and recessed lighting fixtures expressed in the metric system. However, you may not use specifications for these that can be satisfied only by hard-metric.

(f) *Exceptions*. (1) The head of each Central Office Service responsible for nationwide programs may grant an exception to the use of metric system measurements under any of the following conditions:

(i) Use of the metric system is impractical.

(ii) Use of the metric system is inefficient.

(iii) Use of the metric system would cause harm to the program mission.

(2) Exceptions to the use of metric system measurements may be made on an individual or class basis. Exceptions for procurements over the simplified acquisition threshold must be in writing and prepared in accordance with GSA Order, GSA Metric Program (ADM 8000.1B).

(3) The Administrator of GSA may allow use of hard metric specifications for concrete masonry units and recessed lighting fixtures in accordance with GSA Order, GSA Metric Program (ADM 8000.1B).

511.002-71 Construction metrication ombudsman.

(a) GSA’s Construction Metrication Ombudsman is in the Office of the Senior Procurement Executive.

(b) The Construction Metrication Ombudsman:

(1) Reviews and responds to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives related to GSA guidelines and regulations on any of the following:

(i) The use of the metric system in contracts for construction of Federal buildings.

(ii) For services and materials required for incorporation in individual projects to construct Federal Buildings.

(2) Ensures that GSA implements the metric system of measurement in a manner consistent with both:

(i) Policy and guidance issued by the Secretary of Commerce.

(ii) The Metric Conversion Act of 1975, as amended.

(c) The Ombudsman’s authority does not replace the authority of the General Accounting Office.

511.002-72 Procedures for procuring products containing recovered materials and environmentally preferable products.

Specification managers must follow the procedures in [523.4](#) and GSA’s Affirmative Procurement Program ([Appendix 523A](#)) when preparing plans, drawings, specifications, standards, and purchase descriptions.

Subpart 511.1—Selecting and Developing Requirements Documents

511.103 Market acceptance.

You may require offerors to meet market acceptance criteria under FAR 11.103 to satisfy GSA needs.

511.104 Use of brand name or equal purchase descriptions.

(a) A brand name or equal purchase description must avoid specifying characteristics that do not materially affect the intended end use and which unnecessarily restrict competition.

(b) When you use a brand name or equal purchase description, best practice is to cite the known acceptable brand name products in current manufacture, rather than only a single brand name product. For example, cite the acceptable brand name products identified during market research.

(c) You may require samples for “or equal” offers, but not for “brand name” offers.

(d) Provide for full consideration and evaluation of “or equal” offers against the salient characteristics specified in the purchase description. Do not reject offers for minor differences in design, construction, or features which do not affect the suitability of the product for its intended use.

511.104-70 Solicitation provisions.

(a) Include the following immediately after each brand name or equal item description, with instructions for the offeror to complete the information:

Offering on:

Manufacturer’s Name _____

Brand _____

Model or Part No. _____

(b) If the solicitation does not require samples for “or equal” offers, include the following notice in the list of brand name or equal items or component parts:

Notice

If you offer other than brand name items identified in this solicitation, you must provide adequate information for GSA to determine the equality of the product(s) offered.

(c) If you use brand name or equal purchase descriptions for some component parts of an end item, you may limit the application of the provision at FAR 52.211-6 to the specified components.

Subpart 511.2—Using and Maintaining Requirements Documents

511.204 Solicitation provisions and contract clauses.

(a) *Construction services.* Insert the clause at [552.211-71](#), Standard References, in solicitations and contracts for construction services when you expect the contract amount to exceed the simplified acquisition threshold, and the solicitation meets either of the following conditions:

(1) The solicitation cites documents or publications not furnished with the solicitation.

(2) The solicitation incorporates documents or publications by reference.

(b) *Federal specifications.* Insert the clause at [552.211-72](#), Reference to Specifications in Drawings, in solicitations and contracts citing Federal specifications which contain drawings.

(c) *Supply contracts that exceed the simplified acquisition threshold.* (1) Include the clause at [552.211-73](#), Marking, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities and the contract amount is expected to exceed the simplified acquisition threshold.

(2) Include the clause at [552.211-74](#), Charges for Marking, in solicitations and contracts that include the clause at [552.211-73](#) or a similar clause.

(3) Include the clause at [552.211-75](#), Preservation, Packaging and Packing, in solicitations and contracts for supplies expected to exceed the simplified acquisition threshold. You may also include the clause in contracts estimated to be at or below the simplified acquisition threshold when appropriate. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers, use Alternate I.

(4) Insert a clause substantially the same as the clause at [552.211-76](#), Charges for Packaging and Packing, in solicitations and contracts for supplies to be delivered to GSA distribution centers.

(d) *Supply contracts.* Include the clause at [552.211-77](#), Packing List, in solicitations and contracts for supplies, including purchases over the micropurchase threshold. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers, use Alternate I.

Subpart 511.4—Delivery or Performance Schedules

511.401 General.

(a) *Other than multiple award schedules.* Preferred practice is to state time of delivery in solicitations and contracts as

PART 516—TYPES OF CONTRACTS

Subpart 516.2—Fixed Price Contracts

516.203 Fixed-price contracts with economic price adjustment.

516.203-3 Limitations.

(a) For multiple award schedule contracts, you should:

(1) Include an economic price adjustment (EPA) clause only in multiyear solicitations and contracts.

(2) Document in the acquisition plan the determination required by FAR 16.203-3.

(3) Provide supporting rationale in the contract file to include an EPA clause in a 1-year solicitation or contract.

(b) The contracting director must approve any of the following actions:

(1) A determination to include an EPA clause in a 1-year solicitation or contract or to provide for price increases during the first 12 months of a multiyear contract.

(2) The use in a contract of any EPA clause that you did not include in the initial solicitation. This includes any clause that provides for price adjustment during the first 12 months of a multiyear contract.

(c) The contracting director may raise the price ceiling (the aggregate of permitted price increases during a 12-month period) during the contract period when both of the following conditions are met:

(1) A supplier or suppliers request that the ceiling be raised.

(2) Analysis of current market conditions reveals that most suppliers of similar supplies or services are affected. If the price ceiling is raised, you must amend the contract to reflect the revised ceiling.

516.203-4 Contract clauses.

(a) *Multiple award schedules.* Do not use FAR 52.216-2, 52.216-3, or 52.216-4 in negotiated acquisitions based on discounts from established commercial catalogs or pricelists. Instead, use:

(1) [552.216-70](#), Economic Price Adjustment—FSS Multiple Award Schedule Contracts, in a 1-year solicitation or contract.

(2) [552.216-70](#) (Alternate I) in multiyear solicitations and contracts.

(b) *Stock or Special Order Program Contracts.* In multi-year solicitations and contracts, after making the determination required by FAR 16.203-2, use [552.216-71](#), Economic Price Adjustment-Stock and Special Order Program Contracts, or a clause prepared as authorized in paragraph (a)(2)(ii) of this subsection.

(1) If the contract includes one or more options to extend the term of the contract, use the clause with its Alternate I or a clause substantially the same as [552.216-71](#) with its Alternate I suitably modified.

(2) In a contract requiring a minimum adjustment before the price adjustment mechanism is effectuated, use the basic clause with Alternate II or with Alternate I and Alternate II.

(3) If the Producer Price Index is not an appropriate indicator for price adjustment, modify the clause to use an alternate indicator for adjusting prices. Similarly, if other aspects of [552.216-71](#) are not appropriate, use an alternate clause following established procedures.

(c) *Adjustments based on cost indexes of labor or material.*

(1) If you decide to provide for adjustments based on cost indexes of labor or material, prepare a clause that defines each of the following elements:

(i) The type of labor and/or material subject to adjustment.

(ii) The labor rates, including any fringe benefits and/or unit prices of materials that may be increased or decreased.

(iii) The index(es) that will be used to measure changes in price levels and the base period or reference point from which changes will be measured.

(iv) The period during which the price(s) will be subject to adjustment.

(2) The contracting director must approve use of this clause.

Subpart 516.4—Incentive Contracts

516.406 Contract clauses.

The contracting director must approve any award fee clause.

Subpart 516.5—Indefinite-Delivery Contracts

516.506 Solicitation provisions and contract clauses.

(a) In solicitations and contracts for stock or special order program items, when the contract authorizes FSS and other activities to issue delivery or task orders, insert the clause at [552.216-72](#), Placement of Orders. If only FSS will issue delivery or task orders, insert the clause with its Alternate I.

(b) In solicitations and contracts for single or multiple award schedule program items, insert the clause at [552.216-72](#), Placement of Orders, with its Alternate II.

(c) In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers, use [552.216-72](#), Placement of Orders, Alternate III, instead of Alternate II.

(d) If the clause at [552.216-72](#) is prescribed, insert the provision at [552.216-73](#), Ordering Information, in solicitations for stock items and in other FSS solicitations. Use [552.216-73](#) Alternate I when [552.216-72](#) Alternate I is prescribed. Use [552.216-73](#) Alternate II when [552.216-72](#) Alternate II or Alternate III are prescribed.

Subpart 516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

516.603 Letter contracts.

516.603-3 Limitations.

Architect-engineer (A-E) services.

(a) *Requirement for a price proposal.* Before you award a letter contract, the proposed A-E must provide a price proposal for the non-design effort.

(b) *Contents of each letter contract.* You must include the following information in the letter contract:

(1) The scope. If you include the design effort, only authorize the A-E to perform those services that are independent of the design effort (for example, feasibility studies, existing facility surveys or site investigation, etc.). Do not authorize the A-E to begin the design effort before the letter contract is definitized.

(2) A definitization schedule. Include dates for each of the following:

(i) Submission of the design fee proposal.

(ii) Start of negotiations.

(iii) Definitization. This date must be no later than 90 days after the date of the letter contract.

(3) A limitation on the Government's liability for the non-design effort to be performed under the contract. Insert this amount in FAR 52.216-24, Limitation of Government Liability.

(c) *Unilateral price decision.* If you must issue a unilateral price decision, the maximum contract amount must not exceed a reasonable price for the excludable items plus the 6 percent statutory fee limitation for the project.

PART 532—CONTRACT FINANCING

Subpart 532.1—Non-Commercial Item Purchase Financing**532.111 Contract clauses for non-commercial purchases.**

(a) *Invoice requirements.* Insert [552.232-70](#), Invoice Requirements, or something substantially the same, in all solicitations and contracts for supplies, services, construction, architect-engineer services, or the acquisition of leasehold interests in real property that require the submission of invoices for payment. Delete subparagraph (b) of the clause if an Accounting Control Transaction (ACT) number is not required for payment.

(b) *Adjusting payments.* Insert [552.232-71](#), Adjusting Payments, in all solicitations and contracts for recurring building services expected to exceed the simplified acquisition threshold.

(c) *Final payment.* Insert [552.232-72](#), Final Payment, in all solicitations and contracts for recurring building services expected to exceed the simplified acquisition threshold.

532.112 Payment of subcontractors under contracts for non-commercial items.**532.112-1 Subcontractor assertions of nonpayment.**

If you determine under FAR 32.112-1 that a contractor's certification of payment is inaccurate in any material respect, report the matter to the Office of Inspector General. If appropriate, the Office of Inspector General will forward a report and recommendation to the Department of Justice.

Subpart 532.2—Commercial Item Purchase Financing**532.206 Solicitation provisions and contract clauses.**

(a) *Discounts for prompt payment.* Include [552.232-8](#), Discounts for Prompt Payments, in multiple award schedule solicitations and contracts instead of the clause at FAR 52.232-8. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers (SINs), use Alternate I.

(b) The contracting officer shall insert the clause at [552.232-81](#), Payments by Non-Federal Ordering Activities, in solicitations and schedule contracts for Schedule 70 and Consolidated Products and Services Schedule contracts containing information technology SINs.

(c) The contracting officer shall insert the provision at [552.232-82](#), Contractor's Remittance (Payment) Address, in all Federal Supply Schedule solicitations and contracts.

(d) The contracting officer shall insert the clause at [552.232-83](#), Contractor's Billing Responsibilities, in all Multiple Award Schedule solicitations and contracts.

Subpart 532.4—Advance Payments for Non-Commercial Items**532.402 General.**

Prepare the findings and determinations required by FAR 32.402(e) in coordination with the contract finance office. The HCA approves the findings, determinations and authorization for advance payments.

532.407 Interest.

The contract finance office will give you the interest rate to be charged on the unliquidated balance of advance payments.

Subpart 532.5—Progress Payments Based on Costs**532.501 General.****532.501-2 Unusual progress payments.**

The HCA must approve or disapprove requests for "unusual" progress payments.

532.501-70 Use of benchmarks with progress payments based on costs.

(a) In unusual circumstances, you may request that specified benchmarks, such as submission and acceptance of a pre-production or pilot model, be achieved before making progress payments based on costs. If you do this, the HCA must make a written determination that use of benchmarks is in the best interest of the Government. The solicitation and each resulting contract must then include a provision specifying which benchmarks must be achieved before progress payments are made.

(b) Do not use benchmarks in a manner that will convert progress payments based on costs into progress payments based on a percentage or stage of completion.

532.502 Preaward matters.**532.502-2 Contract finance office clearance.**

(a) The contract finance office director provides the approval required by FAR 32.502-2.

(b) Before providing for progress payments based on costs, request the Credit and Finance Section, the Heartland Region, to provide advice and assistance about a contractor's financial condition and the adequacy of his accounting system and controls.

532.503-5 Administration of progress payments.

Ensure that the contract finance office:

(a) Has adequate administrative and fiscal procedures to accomplish the fiscal aspects of FAR 32.503-5.

(b) Gives you the date and amount of each progress payment to a contractor.

(c) Provides you written recommendations if findings warrant action by the Government.

532.503-6 Suspension or reduction of payments.

The HCA must approve any action recommended under FAR 32.503-6. Upon approval, request the contract finance office to suspend or reduce payments.

532.503-9 Liquidation rates—alternate method.

Reduction of the liquidation rates specified in paragraph (b) of FAR 52.232-16 may be made only with your approval after coordination with the contract finance office. Upon approval, request the finance office to reduce the rate.

Subpart 532.6—Contract Debts**532.606 Debt determination and collection.****532.606-70 Definitions.**

“Debt” means an amount of money or property that a responsible official has determined is owed to the United States by any person or entity except that the term does not apply to amounts owed by another Federal agency.

“Delinquent debt” means an amount that has not been paid or otherwise collected by the date specified (usually 30 days) in your initial written demand for payment (i.e., contracting officer's final decision letter).

“Responsible official” means you, the contracting officer. However, the contract finance office is responsible for the administration of debt collection under the Accounting Operations—Accounts Receivable and Credit and Finance Operations, and Related Activities Handbook (PFM P 4253.1).

532.606-71 Referral of delinquent debts.

(a) If you determine that a debt in excess of \$100 is delinquent, notify the applicable finance office for collection in

accordance with the Debt Collection Act of 1982, and possible forwarding to a credit reporting agency.

(b) If the contractor appeals your demand for payment pursuant to the Disputes clause of its contract, advise the Finance Office whether to suspend collection efforts pending resolution of the dispute.

Subpart 532.7—Contract Funding**532.700 Scope of subpart.**

GSA fiscal regulations are in the Budget Administration Handbook (CFO 4251.4), Accounting Classification Handbook (CFO P 4240.1), and Accounting Operations—Voucher Examination Payment Handbook (CFO P 4252.1).

532.705 Contract clauses.**532.705-1 Clauses for contracting in advance of funds.**

Insert [552.232-73](#), Availability of Funds, in solicitations and contracts for services which are “severable” when both of the following conditions apply:

(a) The contract, or a portion of the contract, will be chargeable to funds of the new fiscal year.

(b) The circumstances described in the prescriptions for FAR 52.232-18 or 52.232-19 do not apply.

Subpart 532.8—Assignment of Claims**532.805 Procedure.**

(a) When acknowledging receipt of the notice of assignment, notify the contractor that all future invoices or other requests for payment under the contract must specify the name and address of the assignee and include a notation that payments due thereunder have been duly assigned. You must send a copy of the acknowledgment to the contract finance office.

(b) When payments under requirements or indefinite quantity contracts that are for the sole use of GSA have been assigned, provide all GSA offices that will place orders against the contract the name and address of the assignee that will receive amounts due under the contract. The notification should also state that you requested the contractor to specify the name and address of the assignee on future invoices.

532.806 Contract clauses.

Insert the clause at [552.232-23](#), Assignment of Claims, in solicitations and requirements or indefinite quantity contracts under which more than one agency may place orders.

Subpart 532.9—Prompt Payment

532.902 Definitions.

“Full cycle electronic commerce” means the use of electronic data interchange (EDI), Internet-based invoice processing, and electronic funds transfer (EFT):

(a) By the Government, to place purchase, delivery, or task orders, receive invoices, and pay invoices.

(b) By the Contractor, to accept and fill orders, submit invoices, and receive payment.

532.905 Invoice payments.

(a) *General and architect-engineer contracts.* Before exercising the authority to modify the date for constructive acceptance or constructive approval of progress payments in the clauses listed below, you must prepare a written justification explaining why a longer period is necessary. An official one level above you must approve your justification. Determine the time needed on a case-by-case basis.

(1) In paragraph (a)(6)(i) of the clause at FAR 52.232-25, Prompt Payment, do not specify a constructive acceptance period that exceeds 30 days.

(2) In paragraph (a)(4)(i)(A) of the clause at FAR 52.232-26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, do not specify a constructive acceptance period that exceeds 30 days.

(3) In paragraph (a)(4)(i)(B) of the clause at FAR 52.232-26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, do not specify a period for constructive approval of progress payments that exceeds 7 days.

(b) *Construction contracts.*

(1) Determine on a case-by-case basis the time specified for payment of progress payments in paragraph (a)(1)(i)(A) of the clause at FAR 52.232-27, Prompt Payment for Construction Contracts. Justify in writing periods longer than 14 days. An official one level above you must approve your justification. Under no circumstances may more than 30 days be specified.

(2) Determine the time to be specified in paragraph (a)(4)(i) of FAR clause 52.232-27, for constructive acceptance or approval, on a case-by-case basis. This time may not exceed 7 days unless you justify a longer period in writing, and obtain the approval of an official one level above you. Under no circumstances may more than 30 days be specified.

(c) *Federal Supply Service.*

(1) To increase efficiency and reduce costs to the Government, Federal Supply Service contracts under the Stock, Special Order, and Schedules Programs may authorize payment within 10 days of receipt of a proper invoice. The contract must meet all the following conditions:

(i) The contractor agrees to full cycle electronic commerce.

(ii) The contract includes FAR 52.232-33, Mandatory Information for Electronic Funds Transfer Payment.

(2) The 10 day payment terms apply to each order that meets all the following conditions:

(i) FSS places the order using EDI in accordance with the Trading Partner Agreement.

(ii) The contractor submits EDI invoices in accordance with the Trading Partner Agreement or invoices through the GSA Finance Center Internet-based invoice process.

(iii) A GSA Finance Center pays the invoices using EFT.

(3) The 10 day payment terms do not apply to any order:

(i) Placed by a GSA contracting activity other than FSS.

(ii) Placed by or paid by another agency.

532.905-70 Certification of payment to subcontractors and suppliers under fixed-price construction contracts.

The contractor may use GSA Form 2419, Certification of Progress Payments Under Fixed-Price Construction Contracts, for the certification required by FAR 52.232-5.

532.905-71 Final payment—construction and building service contracts.

The following procedures apply to construction and building service contracts.

(a) Do not process the final payment on construction or building service contracts until the contractor submits a properly executed GSA Form 1142, Release of Claims. If, after repeated attempts, you are unable to obtain a release of claims from the contractor, you may process the final payment with the approval of assigned legal counsel.

(b) The amount of final payment must include, as appropriate, deductions to cover any of the following:

(1) Liquidated damages for late completion.

(2) Liquidated damages for labor violations.

(3) Amounts withheld for improper payment of labor wages.

(4) The amount of unilateral change orders covering defects and omissions.

532.907 Interest penalties.

You can access the interest rate applicable to late payments under the Prompt Payment Act at <http://www.fms.treas.gov/prompt/formulas.html>. This link provides the current interest rate and a list of past rates also.

532.908 Contract clauses.

(a) *Federal Supply Service*. For FSS Stock, Special Order, and Schedules solicitations and contracts that provide payment in 10 days under [532.905\(c\)](#):

(1) If the contract will include FAR 52.212-4, insert the clause at [552.232-74](#), Invoice Payments. GSA received a class deviation to allow use of [552.232-74](#) for commercial items.

(2) If the contract will not include FAR 52.212-4, insert [552.232-25](#), Prompt Payment, instead of FAR 52.232-25.

(b) *Leasehold Interests in Real Property*. (1) Insert [552.232-75](#), Prompt Payment, in solicitations and contracts for acquiring leasehold interests in real property.

(2) Insert [552.232-76](#), Electronic Funds Transfer Payment, in solicitations and contracts for acquisition of leasehold interests in real property.

(i) You may modify the date for constructive acceptance in subparagraph (b)(2) of the clause to specify a period longer than 7 calendar days (but not to exceed 30 days) if necessary because of the nature of the services to be received, inspected or accepted by the Government. Prepare a written justification for specifying the longer period and obtain your contracting director's approval.

(ii) Use Alternate I if the lease contract does not contain provisions for ordering alterations or overtime utility services.

(c) *Solicitations, purchase orders, contracts, and leases*. Insert [552.232-78](#), Payment Information:

(1) In all solicitations, purchase orders, and contracts, including acquisitions of leasehold interests in real property.

(2) In task and delivery orders if the contract that the order is placed against does not include the clause.

Subpart 532.11—Electronic Funds Transfer

[Reserved]

Subpart 532.70—Authorizing Payment by Governmentwide Commercial Purchase Card

532.7001 Definition.

“Governmentwide commercial purchase card” has the same meaning as in FAR 13.101.

532.7002 Solicitation requirements.

(a) In solicitations for supplies and services, except FSS schedule solicitations, request offerors to indicate if they will accept payment by Governmentwide commercial purchase card. Identify the card brand(s) under the GSA SmartPay program that may be used to make payments under the contract, on the cover page or in Section L of the solicitation.

(b) For FSS schedule contracts, identify the card brand(s) under the GSA SmartPay program that may be used to make payments under the contract in the contract award letter.

(c) For orders placed by GSA, you may authorize payment by Governmentwide commercial purchase card only for orders that do not exceed \$100,000 (see GSA Order, Guidance on Use of the Credit Card for Purchases (CFO 4200.1)).

(d) Consider requesting offerors to designate different levels for which they may accept payment by Governmentwide commercial purchase card, for example:

“If awarded a contract under this solicitation, the offeror agrees to accept payment by Governmentwide commercial purchase card for orders of:

_____ \$2,500 or less	_____ \$25,000 or less
_____ \$50,000 or less	_____ \$100,000 or less”

532.7003 Contract clause.

(a) *Indefinite-delivery, indefinite-quantity (IDIQ) contracts other than Federal Supply Service*. Insert the clause at [552.232-77](#), Payment By Governmentwide Commercial Purchase Card, in IDIQ solicitations and contracts for supplies and services if the contract will provide for payment by Governmentwide commercial purchase card as an alternative method of payment for orders.

(b) *Federal Supply Service contracts*. Use Alternate I of the clause at [552.232-77](#) for all FSS schedule solicitations and contracts, except Federal Supply Schedule 70, Information Technology, and the Consolidated Products and Services Schedule contracts containing information technology Special Item Numbers.

(c) *Federal Supply Service schedule contracts for information technology Special Item Numbers*. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers, use [552.232-79](#) instead of [552.232-77](#).

Subpart 532.71—Payments for Recurring Services

532.7101 Definitions.

“Fixed roll payment” means automatic payment of fixed amounts at regular intervals without submission of an invoice or receiving report.

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING**Subpart 538.2—Establishing and Administering Federal Supply Schedules****538.270 Evaluation of multiple award schedule (MAS) offers.**

(a) The Government will seek to obtain the offeror's best price (the best price given to the most favored customer). However, the Government recognizes that the terms and conditions of commercial sales vary and there may be legitimate reasons why the best price is not achieved.

(b) Establish negotiation objectives based on a review of relevant data and determine price reasonableness.

(c) When establishing negotiation objectives and determining price reasonableness, compare the terms and conditions of the MAS solicitation with the terms and conditions of agreements with the offeror's commercial customers. When determining the Government's price negotiation objectives, consider the following factors:

- (1) Aggregate volume of anticipated purchases.
- (2) The purchase of a minimum quantity or a pattern of historic purchases.
- (3) Prices taking into consideration any combination of discounts and concessions offered to commercial customers.
- (4) Length of the contract period.
- (5) Warranties, training, and/or maintenance included in the purchase price or provided at additional cost to the product prices.
- (6) Ordering and delivery practices.
- (7) Any other relevant information, including differences between the MAS solicitation and commercial terms and conditions that may warrant differentials between the offer and the discounts offered to the most favored commercial customer(s). For example, an offeror may incur more expense selling to the Government than to the customer who receives the offeror's best price, or the customer (e.g., dealer, distributor, original equipment manufacturer, other reseller) who receives the best price may perform certain value-added functions for the offeror that the Government does not perform. In such cases, some reduction in the discount given to the Government may be appropriate. If the best price is not offered to the Government, you should ask the offeror to identify and explain the reason for any differences. Do not require offerors to provide detailed cost breakdowns.

(d) You may award a contract containing pricing which is less favorable than the best price the offeror extends to any commercial customer for similar purchases if you make a determination that both of the following conditions exist:

(1) The prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated.

(2) Award is otherwise in the best interest of the Government.

538.271 MAS contract awards.

(a) MAS awards will be for commercial items as defined in FAR 2.101. Negotiate contracts as a discount from established catalog prices.

(b) Before awarding any MAS contract, determine that the offered prices are fair and reasonable (see FAR Subpart 15.4 and [538.270](#)). Document the negotiation and your determination using FAR 15.406-3 as guidance.

(c) State clearly in the award document the price/discount relationship between the Government and the identified commercial customer (or category of customers) on which the award is predicated.

538.272 MAS price reductions.

(a) Section [552.238-75](#), Price Reductions, requires the contractor to maintain during the contract period the negotiated price/discount relationship (and/or term and condition relationship) between the eligible ordering activities and the offeror's customer or category of customers on which the contract award was predicated (see [538.271\(c\)](#)). If a change occurs in the contractor's commercial pricing or discount arrangement applicable to the identified commercial customer (or category of customers) that results in a less advantageous relationship between the eligible ordering activities and this customer or category of customers, the change constitutes a "price reduction."

(b) Make sure that the contractor understands the requirements of section [552.238-75](#) and agrees to report to you all price reductions as provided for in the clause.

538.273 Contract clauses.

(a) *Multiple award schedules.* Insert in solicitations and contracts:

(1) [552.238-70](#), Identification of Electronic Office Equipment Providing Accessibility for the Handicapped, if you include electronic office equipment items.

(2) [552.238-71](#), Submission and Distribution of Authorized FSS Schedule Pricelists. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule contracts containing information technology Special Item Numbers, use Alternate I. If GSA is not prepared to accept electronic submissions for a particular schedule delete:

(i) Subparagraphs (c)(1)(ii) and (c)(3).

(ii) The subparagraph identifier “(i)” in (c)(1) and the word “and” at the end of subparagraph (i).

(3) [552.238-72](#), Identification of Products that have Environmental Attributes.

(4) [552.238-73](#), Cancellation.

(b) *Multiple and single award schedules.* Insert in solicitations and contracts:

(1) [552.238-74](#), Industrial Funding Fee and Sales Reporting.

(2) [552.238-75](#), Price Reductions. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule contracts containing information technology Special Item Numbers, use Alternate I.

Subpart 538.70—Cooperative Purchasing

538.7000 Scope of subpart.

This subpart prescribes policies and procedures that implement statutory provisions authorizing non-federal organizations to use Schedule 70 and Consolidated Products and Services Schedule contracts containing information technology Special Item Numbers (SINs).

538.7001 Definitions.

“Ordering activity” (also called “ordering agency” and “ordering office”) means an eligible ordering activity (see [552.238-78](#)) authorized to place orders under Federal Supply Schedule contracts.

“Schedule 70,” as used in this subpart, means Schedule 70 information technology contracts, and Consolidated Products and Services Schedule contracts containing information technology SINs. The Consolidated Products and Services Schedule is a compilation of multiple individual Federal Supply Schedules; therefore, only the SINs that fall under Schedule 70 of the Consolidated Products and Services Schedule will apply to Cooperative Purchasing. No other Schedules, or SINs, containing information technology outside of Schedule 70 SINs, and Consolidated Products and Services Schedule contracts containing Schedule 70 SINs, will apply.

“State and local government entities,” as used in this subpart, means the states of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative and judicial departments. The term does not include contractors of, or grantees of, State or local governments.

(1) “Local educational agency” has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(2) “Institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) “Tribal government” means—

(i) The governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(ii) Any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

538.7002 General.

(a) 40 U.S.C. 501, (the Act) authorizes the Administrator of General Services to procure and supply personal property and nonpersonal services for the use of Executive agencies. Under 40 U.S.C. 502, the goods and services available to executive agencies are also available to mixed ownership Government corporations, establishments within the legislative or judicial branches of Government (excepting the Senate, House of Representatives, Architect of the Capitol, and any activities under the direction of the Architect of the Capitol), the District of Columbia, and Qualified Non-profit Agencies.

(b) Section 211 of the E-Government Act of 2002 amends 40 U.S.C. 502 to authorize the Administrator of General Services to provide for use of certain Federal Supply Schedules of the GSA by a State or local government, which includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

(c) State and local governments are authorized to procure only from the information technology Federal Supply Schedule (Schedule 70) contracts and Consolidated Products and Services Schedule contracts containing information technology SINS. A listing of the participating contractors and SINS for the products and services that are available through Schedule 70 and Consolidated Products and Services Schedule contracts containing information technology SINS, is available in GSA's Schedules e-Library at web site <http://fss.gsa.gov/elibrary>. Click on Schedules e-Library and then click on the ICON labeled Cooperative Purchasing, State and Local. The contractors and the products and services available for cooperative purchasing will be labeled with the ICON.

538.7003 Policy.

Preparing solicitations when schedules are open to eligible non-federal entities. When opening Schedule 70 and the Consolidated Products and Services Schedule containing information technology SINS, for use by eligible non-federal entities, the contracting officer must make minor modifications to certain Federal Acquisition Regulation and GSAM provisions and clauses in order to make clear distinctions between the rights and responsibilities of the U.S. Government in its management and regulatory capacity pursuant to which it awards schedule contracts and fulfills associated Federal requirements versus the rights and responsibilities of eligible ordering activities placing orders to fulfill agency needs. Accordingly, the contracting officer is authorized to modify the following FAR provisions/clauses to delete "Government" or similar language referring to the U.S. Government and substitute "ordering activity" or similar language when preparing solicitations and contracts to be awarded under Schedule 70 and the Consolidated Products and Services Schedule containing information technology SINS. When such changes are made, the word "(DEVIATION)" shall be added at the end of the title of the provision or clause. These clauses include but are not limited to:

- (a) 52.212-4, Contract Terms and Conditions—Commercial Items.
- (b) 52.216-18, Ordering.
- (c) 52.216-19, Order Limitations.
- (d) 52.229-1, State and Local Taxes.
- (e) 52.229-3, Federal, State, and Local Taxes.
- (f) 52.232-7, Payments Under Time-and-Materials and Labor-Hour Contracts.
- (g) 52.232-17, Interest.
- (h) 52.232-19, Availability of Funds for the Next Fiscal Year.
- (i) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration
- (j) 52.232-36, Payment by Third Party.
- (k) 52.237-3, Continuity of Services.
- (l) 52.246-4, Inspection of Services-Fixed Price.
- (m) 52.246-6, Inspection—Time-and-Material and Labor-Hour.
- (n) 52.247-34, F.O.B. Destination.
- (o) 52.247-38, F.O.B. Inland Carrier Point of Exportation.

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538.7004 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at [552.238-77](#), Definition (Federal Supply Schedules), in solicitations and schedule contracts for Schedule 70 and the Consolidated Products and Services Schedule contracts containing information technology SINS.

(b) The contracting officer shall insert the clause at [552.238-78](#), Scope of Contract (Eligible Ordering Activities), in solicitations and contracts for Schedule 70 and the Consol-

idated Products and Services Schedule contracts containing information technology SINS.

(c) The contracting officer shall insert the clause at [552.238-79](#), Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing, in solicitations and Schedule 70 contracts and the Consolidated Products and Services Schedule contracts containing information technology SINS.

(d) See [552.101-70](#) for authorized FAR deviations.

PART 546—QUALITY ASSURANCE

Subpart 546.3—Contract Clauses

546.302 Fixed-price supply contracts.

546.302-70 Source inspection by Quality Approved Manufacturer.

For contracts and solicitations issued by FSS:

(a) Insert the clause at [552.246-70](#), Source Inspection by Quality Approved Manufacturer, in solicitations and contract that provide for source inspection, except:

- (1) Multiple award schedule contracts.
- (2) Motor vehicle contracts.
- (3) Contracts awarded by the FSS Services Acquisition Center, unless you decide, together with the Central Office Quality Assurance Division (FQA), that inspection by Government personnel is necessary.

(b) You may authorize inspection and testing at manufacturing plants or other facilities located outside the United States, Puerto Rico, or the Virgin Islands, under paragraph (a)(1) of the clause at [552.246-70](#) under any of the circumstances listed below. Coordinate the authorization with FQA and document it in the file.

- (1) Inspection services are available from another Federal agency with primary inspection responsibility in the geographic area.
- (2) An inspection interchange agreement exists with another agency for inspection at a contractor's plant.
- (3) The procurement is for the Agency for International Development and specifies the area of source.
- (4) Other considerations will ensure more economical and effective inspection consistent with the Government's interest.

546.302-71 Source inspection.

For solicitations and contracts issued by FSS, if Government personnel at the source will perform inspection, insert [552.246-71](#), Source Inspection by Government.

546.312 Construction contracts.

Insert the clause at [552.246-72](#), Final Inspection and Tests, in solicitations and contracts for construction that include FAR 52.246-12, Inspection of Construction.

Subpart 546.4—Government Contract Quality Assurance

546.400-70 Scope of subpart.

This subpart prescribes policies and procedures for the Federal Supply Service. Use by other GSA activities is optional.

546.402 Government contract quality assurance at source.

(a) Government personnel or a Quality Approved Manufacturer must perform source inspection of supplies under any of the following contracts:

- (1) FSS contracts selected for source inspection.
- (2) Requirements contracts with a national scope, including shipments to GSA distribution centers.
- (3) Requirements contracts with a regional scope.
- (4) Definite quantity contracts for stock items.
- (5) Contracts for Class 8010 items.
- (6) Contracts for:
 - (i) Special-purpose vehicles.
 - (ii) Trucks over 10,000 pounds gross vehicle weight (GVW).
 - (iii) Trucks weighing 10,000 pounds GVW or less, not covered by a Federal standard.
 - (iv) Vehicles to be shipped outside the coterminous United States.

(b) Contracts may also provide for source inspection if the contracting director both:

- (1) Coordinates with FQA.
- (2) Determines it is in the Government's interest due to the critical nature of the supplies.

546.403 Government contract quality assurance at destination.

Require inspection of supplies at destination under each of the following:

- (a) For purchases that exceed the micropurchase threshold, but not the simplified acquisition threshold.
- (b) For schedule contracts, except those selected for source inspection.
- (c) If contracting for either:
 - (1) Commercial or off-the-shelf products.
 - (2) Standard vehicles purchased for domestic consignees.
 - (3) Trucks weighing 10,000 pounds GVW or less, purchased for domestic consignees using a Federal Standard.

546.470 Testing.

You may authorize testing to determine conformance with specifications and standards at the facilities of any of the following:

- (a) Federal agencies.

- (b) Manufacturers.
- (c) Independent testing laboratories.
- (d) Others, as appropriate.

546.470-1 Acceptance testing.

(a) Acceptance testing determines conformance with purchase descriptions or specifications before a shipment is accepted. Do not use acceptance testing solely to furnish information to a producer or vendor as to whether a product conforms with specification requirements.

(b) GSA normally bears the cost of services for acceptance testing of samples of a shipment, except for retesting necessitated by prior rejection.

546.470-2 Certification testing.

Certification testing determines whether an item conforms with a specification for the purpose of executing a certificate of compliance required by the specification. The contractor has responsibility for certification testing.

Subpart 546.7—Warranties

546.704 Authority for use of warranties.

Consider the criteria in FAR 46.703 and decide whether to use a warranty in a specific acquisition.

546.705 Limitations.

The contracting director must approve the use of warranties in cost reimbursement contracts, except those in FAR clauses 52.246-3 and 52.246-8.

546.708 Warranties of data.

(a) Use warranties of data only when you meet both of the following conditions:

- (1) You decide the use of a warranty is in the Government's interest.
 - (2) The contracting director concurs in your decision.
- (b) The technical or specification manager has responsibility for developing any warranties of data.

546.709 Warranties of commercial items.

The specification manager must advise you which of the following apply:

- (a) Whether a specification contains a warranty.
- (b) Whether a commercial warranty applies.
- (c) If an extended warranty is necessary, and recommend the duration of the extended warranty.

546.710 Contract clauses.

(a) Insert the clause at [552.246-17](#), Warranty of Supplies of a Noncomplex Nature, instead of FAR 52.246-17 in solicitations and contracts. Use the following alternates as applicable:

(1) *Commercial item acquisitions other than multiple award schedules.* Use the clause at [552.246-17](#) with its Alternate I.

(2) *Other than commercial items in Class 8010.* Use the clause at [552.246-17](#) with its Alternate II.

(3) *Other than commercial items in Class 8030 or 8040.* Use the clause at [552.246-17](#) with its Alternate III. In addition, specify in the solicitation whether the items are “noncritical end use items” or “critical end use items”.

(b) *Multiple award schedules.* Insert the clause at [552.246-73](#), Warranty—Multiple Award Schedule, in solicitations and contracts. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers, use Alternate I.

(c) *Construction contracts expected to exceed the simplified acquisition threshold.* Insert the clause at [552.246-75](#), Guarantees, in solicitations and contracts.

(d) *Pesticides.* Insert the clause at [552.246-76](#), Warranty of Pesticides, in solicitations and contracts involving the procurement of pesticides.

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(g) The basic content and format of the TPA will be provided by:

General Services Administration
Acquisition Operations and Electronic Commerce Center
(FCS)
Washington, DC 20406

Telephone: [Contracting Officer insert appropriate telephone numbers]

FAX:

(End of clause)

Alternate I (Sep 1999). As prescribed in 516.506, substitute the following paragraphs (a), (b), (c), and (d) for paragraphs (a), (b), (c), and (d) of the basic clause:

(a) All delivery orders (orders) under this contract will be placed by the General Services Administration's Federal Supply Service (FSS). The Contractor is not authorized to accept orders from any other agency. Violation of this restriction may result in termination of the contract pursuant to the default clause of this contract.

(b) All orders shall be placed by Electronic Data Interchange (EDI) using the American National Standards Institute (ANSI) X12 Standard for Electronic Data Interchange (EDI) format.

(c) If the Contractor agrees, transmission will be computer-to-computer EDI. If computer-to-computer EDI is not possible, FSS will use an alternative EDI method allowing the Contractor to receive orders by facsimile transmission.

(d) When computer-to-computer EDI procedures will be used to place orders, the Contractor shall enter into a Trading Partner Agreement (TPA) with FSS in order to ensure mutual understanding by the parties of certain electronic transaction conventions and to recognize the rights and responsibilities of the parties as they apply to this method of placing orders. The TPA must identify, among other things, the third party provider(s) through which electronic orders are placed, the transaction sets used, security procedures, and guidelines for implementation.

Alternate II (Sep 1999). As prescribed in 516.506(c), substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) The organizations listed below may place orders under this contract. Questions regarding organizations authorized to use this schedule should be directed to the Contracting Officer.

- (1) Executive agencies.
(2) Other Federal agencies.
(3) Mixed-ownership Government corporations.
(4) The District of Columbia.

(5) Government contractors authorized in writing by a Federal agency pursuant to 48 CFR 51.1.

(6) Other activities and organizations authorized by statute or regulation to use GSA as a source of supply.

Alternate III (May 2004). As prescribed in 516.506(c), substitute the following paragraphs (a), (c), and (d) for paragraphs (a), (c), and (d) of the basic clause:

(a) See 552.238-78, Scope of Contract (Eligible Ordering Activities), for who may order under this contract.

(c) If the Contractor agrees, GSA's Federal Supply Service (FSS) will place orders for eligible ordering activities, as defined in paragraph (a) of the clause at 552.238-78, by EDI using computer-to-computer EDI. If computer-to-computer EDI is not possible, FSS will use an alternative EDI method allowing the Contractor to receive orders by facsimile transmission. Subject to the Contractor's agreement, other eligible ordering activities, as defined in paragraphs (a) and (d) of the clause at 552.238-78, may also place orders by EDI.

(d) When computer-to-computer EDI procedures will be used to place orders, the Contractor shall enter into one or more Trading Partner Agreements (TPA) with each ordering activity placing orders electronically in order to ensure mutual understanding by the parties of certain electronic transaction conventions and to recognize the rights and responsibilities of the parties as they apply to this method of placing orders. The TPA must identify, among other things, the third party provider(s) through which electronic orders are placed, the transaction sets used, security procedures, and guidelines for implementation. Ordering activities may obtain a sample format to customize as needed from the office specified in paragraph (g) of this clause.

552.216-73 Ordering Information.

As prescribed in 516.506(c), insert the following provision:

ORDERING INFORMATION (SEP 1999)

(a) In accordance with the Placement of Orders clause of this solicitation, the offeror elects to receive orders placed by GSA's Federal Supply Service (FSS) by either [] facsimile transmission or [] computer-to-computer Electronic Data Interchange (EDI).

(b) An offeror electing to receive computer-to-computer EDI is requested to indicate below the name, address, and telephone number of the representative to be contacted regarding establishment of an EDI interface.

Blank lines for providing name, address, and telephone number.

(c) An offeror electing to receive orders by facsimile transmission is requested to indicate below the telephone num-

ber(s) for facsimile transmission equipment where orders should be forwarded.

(d) For mailed orders, the offeror is requested to include the postal mailing address(es) where paper form orders should be mailed.

(End of provision)

Alternate I (Sep 1999). As prescribed in [516.506\(b\)](#), delete paragraph (d) of the basic provision.

Alternate II (Sep 1999). As prescribed in [516.506\(b\)](#), add the following paragraph (e) to the basic provision:

(e) Offerors marketing through dealers are requested to indicate below whether those dealers will be participating in the proposed contract.

YES NO

If “yes” is checked, ordering information to be inserted above shall reflect that in addition to offeror’s name, address, and facsimile transmission telephone number, orders can be addressed to the offeror’s name, c/o nearest local dealer. In this event, two copies of a list of participating dealers shall accompany this offer, and shall also be included in Contractor’s Federal Supply Schedule pricelist.

552.217-70 Evaluation of Options.

As prescribed in [517.208\(a\)](#), insert the following provision:

EVALUATION OF OPTIONS (AUG 1990)

(a) The Government will evaluate offers for award purposes by determining the lowest base period price. When option year pricing is based on a formula (e.g., changes in the Producer Price Index or other common standard); option year pricing is automatically considered when evaluating the base year price, as any change in price will be uniformly related to changes in market conditions. All options are therefore considered to be evaluated. Evaluation of options will not obligate the Government to exercise the option(s).

(b) The Government will reject the offer if exceptions are taken to the price provisions of the Economic Price Adjustment clause, unless the exception results in a lower maximum option year price. Such offers will be evaluated without regard to the lower option year(s) maximum. However, if the offeror offering a lower maximum is awarded a contract, the award will reflect the lower maximum.

552.217-71 Notice Regarding Option(s).

As prescribed in [517.208\(b\)](#), insert the following provision:

NOTICE REGARDING OPTION(S) (NOV 1992)

The General Services Administration (GSA) has included an option to *[Insert “purchase additional quantities of supplies or services” or “extend the term of this contract” or “purchase additional quantities of supplies or services and to extend the term of this contract”]* in order to demonstrate the value it places on quality performance by providing a mechanism for continuing a contractual relationship with a successful Offeror that performs at a level which meets or exceeds GSA’s quality performance expectations as communicated to the Contractor, in writing, by the Contracting Officer or designated representative. When deciding whether to exercise the option, the Contracting Officer will consider the quality of the Contractor’s past performance under this contract in accordance with 48 CFR 517.207.

(End of provision)

552.219-70 Allocation of Orders—Partially Set-aside Items.

As prescribed in [519.508](#), insert the following clause:

ALLOCATION OF ORDERS—PARTIALLY SET-ASIDE ITEMS (SEP 1999)

Where the set-aside portion of an item or group of items is awarded to a Contractor other than the one receiving the award on the corresponding non-set-aside portion, the Government will divide the requirements to be ordered between the two Contractors with the objective of achieving, as nearly as possible, a 50/50 division of the total value of orders placed after the award of the set-aside portion. In no case will this division vary by more than a 60/40 division (with either the non-set-aside or set-aside Contractor receiving the larger portion) from the time of the award of the set-aside portion.

(End of clause)

552.219-71 Notice to Offerors of Subcontracting Plan Requirements.

As prescribed in [519.708\(a\)](#), insert the following provision:

NOTICE TO OFFERORS OF SUBCONTRACTING PLAN REQUIREMENTS (SEP 1999)

The General Services Administration (GSA) is committed to assuring that maximum practicable opportunity is provided to small, HUBZone small, small disadvantaged, and women-owned small business concerns to participate in the performance of this contract consistent with its efficient performance. GSA expects any subcontracting plan submitted

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(3) Reportable sales under the contract are those resulting from sales of contract items to authorized users unless the purchase was conducted pursuant to a separate contracting authority such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales for IFF purposes.

(4) The Contractor shall electronically report the quarterly dollar value of sales, including “zero” sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA)’s Federal Supply Service (FSS). Prior to using this automated system, the Contractor shall complete contract registration with the FSS Vendor Support Center (VSC). The website address, as well as registration instructions and reporting procedures, will be provided at the time of award. The Contractor shall report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or sub-item.

(5) The Contractor shall convert the total value of sales made in foreign currency to U.S. dollars using the “Treasury Reporting Rates of Exchange” issued by the U.S. Department of Treasury, Financial Management Service. The Contractor shall use the issue of the Treasury report in effect on the last day of the calendar quarter. The report is available from Financial Management Service, International Funds Branch, Telephone: (202) 874-7994, Internet: <http://www.fms.treas.gov/intn.html>.

(b) The Contractor shall remit the IFF at the rate set by GSA’s FSS.

(1) The Contractor shall remit the IFF to FSS in U.S. dollars within 30 calendar days after the end of the reporting quarter; final payment shall be remitted within 30 days after physical completion of the last outstanding task order or delivery order of the contract.

(2) The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA’s FSS. GSA’s FSS has the unilateral right to change the percentage at any time, but not more than once per year. FSS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FSS for the costs of operating the Federal Supply Schedules Program and recoups its operating costs from ordering activities. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. FSS will post notice of the current IFF at <http://72a.fss.gsa.gov/> or successor website as appropriate.

(c) Within 60 days of award, an FSS representative will provide the Contractor with specific written procedural instructions on remitting the IFF. FSS reserves the unilateral right to change such instructions from time to time, following notification to the Contractor.

(d) Failure to remit the full amount of the IFF within 30 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improve-

ment Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.232-17, Interest). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the IFF, this is sufficient cause for the Government to terminate the contract for cause.

(End of clause)

552.238-75 Price Reductions.

As prescribed in [538.273\(b\)\(2\)](#), insert the following clause:

PRICE REDUCTIONS (MAY 2004)

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government’s price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained throughout the contract period. Any change in the Contractor’s commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor’s report shall include an explanation of the conditions under which the reductions were made.

(c) (1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor—

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales—

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

(2) To Federal agencies;

(3) Made to State and local government entities when the order is placed under this contract (and the State and local government entity is the agreed upon customer or category of customer that is the basis of award); or

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(4) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contract will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

(End of clause)

Alternate I (May 2003). As prescribed in [538.273\(b\)\(2\)](#) substitute the following paragraph (c)(2) for paragraph (c)(2) of the basic clause, and substitute the following paragraph (d)(2) for paragraph (d)(2) of the basic clause.

(c)(2) The Contractor shall offer the price reduction to the eligible ordering activities with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d)(2) To eligible ordering activities under this contract; or

552.238-76 [Reserved]

552.238-77 Definition (Federal Supply Schedules).

As prescribed in [538.7004\(a\)](#), insert the following clause:

DEFINITION (FEDERAL SUPPLY SCHEDULES) (MAY 2003)

Ordering activity (also called "ordering agency" and "ordering office") means an eligible ordering activity (see [552.238-78](#)) authorized to place orders under Federal Supply Schedule contracts.

(End of clause)

552.238-78 Scope of Contract (Eligible Ordering Activities).

As prescribed in [538.7004\(b\)](#), insert the following clause:

SCOPE OF CONTRACT (ELIGIBLE ORDERING ACTIVITIES)
(MAY 2004)

(a) This solicitation is issued to establish contracts which may be used on a nonmandatory basis by the agencies and activities named below, as a source of supply for the supplies or services described herein, for domestic and/or overseas delivery. For Special Item Number 132-53, Wireless Services ONLY, limited geographic coverage (consistent with the Offeror's commercial practice) may be proposed.

(1) Executive agencies (as defined in FAR Subpart 2.1) including nonappropriated fund activities as prescribed in 41 CFR 101-26.000;

(2) Government contractors authorized in writing by a Federal agency pursuant to FAR 51.1;

(3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act);

(4) Federal Agencies, including establishments in the legislative or judicial branch of government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol).

(5) The District of Columbia;

(6) Tribal governments when authorized under 25 USC 450j(k);

(7) Qualified Nonprofit Agencies as authorized under 40 USC 502(b); and

(8) Organizations, other than those identified in paragraph (d) of this clause, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.

(b) *Definitions.* *Domestic delivery* is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. territories.

(c) Offerors are requested to check one of the following boxes:

Contractor will provide domestic and overseas delivery.

Contractor will provide overseas delivery only.

Contractor will provide domestic delivery only.

(d) The following activities may place orders against information technology schedule 70 contracts and Consolidated Products and Services Schedule contracts containing information technology special item numbers, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities: State and local government, includes any state, local, regional or tribal government or any instrumentality thereof (including any local educational agency or institution of higher learning).

(e) Articles or services may be ordered from time to time in such quantities as may be needed to fill any requirement, subject to the Order Limitations thresholds which will be specified in resultant contracts. Overseas activities may place orders directly with schedule contractors for delivery to CONUS port or consolidation point.

(f) (1) The Contractor is obligated to accept orders received from activities within the Executive branch of the Federal Government.

(2) The Contractor is not obligated to accept orders received from activities outside the Executive branch; however, the Contractor is encouraged to accept such orders. If the Contractor elects to accept such orders, all provisions of the contract shall apply, including clause [552.232-79](#), Payment by Credit Card. If the Contractor is unwilling to accept such orders, and the proposed method of payment is not through the Credit Card, the Contractor shall return the order by mail or other means of delivery within 5 workdays from receipt. If the Contractor is unwilling to accept such orders, and the proposed method of payment is through the Credit Card, the Contractor must so advise the ordering activity within 24 hours of receipt of order. (Reference clause

[552.232-79](#), Payment by Credit Card.) Failure to return an order or advise the ordering activity within the time frames of this paragraph shall constitute acceptance whereupon all provisions of the contract shall apply.

(g) The Government is obligated to purchase under each resultant contract a guaranteed minimum of \$2,500 (two thousand, five hundred dollars) during the contract term.

(End of clause)

552.238-79 Use of Federal Supply Schedule Contracts by Certain Entities—Cooperative Purchasing.

As prescribed in [538.7004\(c\)](#), insert the following clause:

USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY
CERTAIN ENTITIES—COOPERATIVE PURCHASING
(MAY 2004)

(a) If an entity identified in paragraph (d) of the clause at [552.238-78](#), Scope of Contract (Eligible Ordering Activities), elects to place an order under this contract, the entity agrees that the order shall be subject to the following conditions:

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies “Compliance with laws unique to Government contracts” (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, parties to this new contract are encouraged to resolve disputes through Alternative Dispute Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an agreement that may be entered into by the Contractor with such an entity and the Federal Government is not a party.

(2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of GSA, that shall mean the individual responsible for placing the order for the ordering activity (e.g., FAR 52.212-4 at paragraph (f) and FSS clause I-FSS-249 B.)

(3) As a condition of using this contract, eligible ordering activities agree to abide by all terms and conditions of the Schedule contract, except for those deleted clauses or portions of clauses mentioned in paragraph (a)(1) of this clause. Ordering activities may include terms and conditions required by statute, ordinance, regulation, order, or as otherwise allowed by State and local government entities as a part of a statement of work (SOW) or statement of objective (SOO) to the extent that these terms and conditions do not conflict with

the terms and conditions of the Schedule contract. The ordering activity and the Contractor expressly acknowledge that, in entering into an agreement for the ordering activity to purchase goods or services from the Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any secondary capacity, or file any claim against the United States or any of its agencies with respect to any failure of performance by the other party.

(4) The ordering activity is responsible for all payments due the Contractor under the contract formed by acceptance of the ordering activity’s order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(6) The supplies or services purchased will be used for governmental purposes only and will not be resold for personal use. Disposal of property acquired will be in accordance with the established procedures of the ordering activity for the disposal of personal property.

(b) If the Schedule Contractor accepts an order from an entity identified in paragraph (d) of the clause at [552.238-78](#), Scope of Contract (Eligible Ordering Activities), the Contractor agrees to the following conditions:

(1) The ordering activity is responsible for all payments due the Contractor for the contract formed by acceptance of the order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall decline the order using the same means as those used to place the order. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(c) In accordance with clause [552.238-74](#), Industrial Funding Fee and Sales Reporting, the Contractor must report the quarterly dollar value of all sales under this contract. When submitting sales reports, the Contractor must report two dollar values for each Special Item Number:

(1) The dollar value for sales to entities identified in paragraph (a) of the clause at [552.238-78](#), Scope of Contract (Eligible Ordering Activities), and

(2) The dollar value for sales to entities identified in paragraph (d) of clause [552.238-78](#).

(End of clause)

552.242-70 Status Report of Orders and Shipments.

As prescribed in [542.1107](#), insert the following clause:

STATUS REPORT OF ORDERS AND SHIPMENTS (APR 1992)

(a) The Contractor shall furnish to the Administrative Contracting Officer (ACO) a report covering orders received

and shipments made during each calendar month of contract performance. The information required by the Government shall be reported on GSA Form 1678, Status Report of Orders and Shipments, in accordance with instructions on the form. The information required by the GSA Form 1678 may also be submitted in an automated printout form if authorized by the ACO. Alternatively, the required information may be reported by electronic data interchange using ANSI standards. For further information, contact GSA, Contract Administration Division [Insert appropriate telephone number of FQC]. Reports shall be forwarded to the ACO no later than the seventh workday of the succeeding month.

(b) An initial supply of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be obtained from the ACO, or reproduced by the Contractor.

(End of clause)

552.243-70 Pricing of Adjustments.

As prescribed in [543.205\(a\)\(1\)](#), insert the following clause:

PRICING OF ADJUSTMENTS (APR 1989)

When costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR Part 31) in effect on the date of this contract.

(End of clause)

552.243-71 Equitable Adjustments.

As prescribed in [543.205\(a\)\(2\)](#), insert the following clause:

EQUITABLE ADJUSTMENTS (APR 1984)

(a) The provisions of the “Changes” clause prescribed by FAR 52.243-4 are supplemented as follows:

(1) Upon written request, the Contractor shall submit a proposal, in accordance with the requirements and limitations set forth in the “Equitable Adjustments” clause, for work involving contemplated changes covered by the request. The proposal shall be submitted within the time limit indicated in the request or any extension of such time limit as may be subsequently granted. The Contractor’s written statement of the monetary extent of a claim for equitable adjustment shall be submitted in the following form:

(i) Proposals totaling \$5,000 or less shall be submitted in the form of a lump sum proposal with supporting information to clearly relate elements of cost with specific items of work involved to the satisfaction of the Contracting Officer, or his/her authorized representative.

(ii) For proposals in excess of \$5,000, the claim for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following detail:

Direct Costs

Material quantities by trades and unit costs (Manufacturing burden associated with material fabrication performed will be considered to be part of the material costs of the fabricated item delivered to the job site)

Labor breakdown by trades and unit costs (Identified with specific item of material to be placed or operation to be performed)

Construction equipment exclusively necessary for the change

Costs of preparation and/or revision to shop drawings resulting from the change

Workers’ Compensation and Public Liability Insurance

Employment taxes under FICA and FUTA

Bond Costs—when size of change warrants revision

Overhead, Profit and Commission

(2) The allowable overhead shall be determined in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR Part 31) in effect on the date of this contract. The percentages for profit and commission shall be negotiated and may vary according to the nature, extent and complexity of the work involved, but in no case shall exceed the following unless the Contractor demonstrates entitlement to a higher percentage:

To:	Overhead	Profit	Commission
Contractor on work performed by other than his own forces	—	—	10%
First-tier subcontractor on work performed by his subcontractors	—	—	10%
Contractor and/or the subcontractors for that portion of the work performed with their respective forces	To be negotiated	10%	

Not more than four percentages will be allowed regardless of the number of tier subcontractors. The Contractor shall not be allowed a commission on the commission received by a first tier subcontractor. Equitable adjustments for deleted work shall include credits for overhead, profit and commission. On proposals covering both increases and decreases in the amount of the contract, the application of overhead and profit shall be on the net change in direct costs for the Contractor or subcontractor performing the work.