APD 2800.12B

GENERAL SERVICES ADMINISTRATION ACQUISITION MANUAL (GSAM)

U.S. GENERAL SERVICES ADMINISTRATION (GSA) OFFICE OF ACQUISITION POLICY (OAP)

Introduction

The General Services Administration Acquisition Manual (GSAM) consolidates the General Services Administration (GSA) agency acquisition rules and guidance.

Distinguishing Regulatory Material

The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy. GSAR material is shaded. The shading helps users to distinguish and identify those parts that are regulatory from those that apply internally to GSA.

The shaded parts are those subject to section 22 of the Office Federal Procurement Policy Act, as amended (41 U.S.C. 418b). GSA must publish these rules in the Federal Register and codify them in 48 CFR Chapter 5 in accordance with the Paperwork Reduction Act (44 U.S.C. 3051 et seq.) and the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rules that require publication fall into two major categories:

(1) Those that affect GSA's business partners (e.g., prospective offerors, contractors).

(2) Those that apply to acquisition of leasehold interests in real property. The Federal Acquisition Regulation (FAR) does not apply to leasing actions. GSA establishes regulations for lease of real property under the authority of 40 U.S.C. 490 note.

Separating regulatory material from internal directives decreases the number of rules subject to publication in the Federal Register. It also provides greater flexibility and responsiveness because an internal directive is easier and quicker to update or change.

Addressed to the Contracting Officer

Both the GSAR and GSAM address the contracting officer, except where specifically indicated. "You" means the contracting officer.

Compliance with Internal Directives

Non-shaded material is nonregulatory, but occasionally includes requirements that are mandatory for GSA personnel. These requirements are necessary to ensure uniformity or for other reasons.

Consolidation of Acquisition Directives

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PART 501 - GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

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PART 501 - GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

Subpart 501.1 - Purpose, Authority, Issuance

501.101 Purpose.

(a) The General Services Acquisition Regulation (GSAR) contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

(b) The GSAR addresses rules directly to you, the contracting officer , unless otherwise indicated.

501.103 Authority.

GSA's Senior Procurement Executive issues the GSAR under the authority of the Federal Property and Administrative Services Act of 1949, as amended.

501.104 Applicability.

(a) *General*. The GSAR applies to contracts for supplies or services, including construction.

(b) *Acquisition of leasehold interests in real property*. part 570 establishes rules for the acquisition of leasehold interests in real property. Other provisions of 48 CFR Chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-referenced in part 570.

(c) *Relationship to statute*. Some GSAR rules implement and interpret laws and other authorities affecting procurement. A GSAR rule specifically directed by statute has the force and effect of law.

501.105 Issuance.

501.105-1 Publication and code arrangement.

The GSAR is published in the following sources:

(a) The Federal Register at https://www.federalregister.gov/.

(b) Annual Code of Federal Regulations (CFR), as Chapter 5 of Title 48.

501.105-2 Arrangement of regulations.

(a) The GSAR numbers and captions policies and procedures to correspond to how they appear in the FAR, e.g., 1.104 in the FAR is 501.104 in the GSAR.

(b) GSAR rules not implementing the FAR have numbers beginning with 70, e.g., part 570, subsection 515.209-70.

(c) The GSAR may have gaps in its numbering scheme because a FAR rule may not require GSAR implementation.

501.105-3 Copies.

Copies of the GSAR may be purchased from the Government Printing Office at https://www.gpo.gov/. The GSAR is also available electronically at https://www.ecfr.gov/ or at https://www.acquisition.gov under the agency supplements tab.

501.106 OMB Approval under the Paperwork Reduction Act.

The Paperwork Reduction Act of 1980 (44 U.S.C. 35, et seq.) imposes a requirement on Federal agencies to obtain approval from the Office of Management and Budget (OMB) before collecting information from 10 or more members of the public. The information collection and recordkeeping requirements contained in this regulation have been approved by the OMB. This table includes OMB approved control numbers from GSA (3090 series) and the FAR (9000 series) that are applicable to GSA acquisition requirements. The following OMB control numbers apply:

Table 1 to 501.106

GSAR Reference	OMB Control No.
509.105-1	3090-0007
511.171	3090-0300
511.204	3090-0246
512.301	3090-0163
514.201	3090-0163
515.209	3090-0163
515.408	3090-0235
516.506	3090-0248, 3090-0306, 3090-0163
523.370	3090-0205
532.111	3090-0080
532.905-70	3090-0080
532.908	3090-0080
536.572	3090-0308
536.7002-4	3090-0274
536.7107	3090-0320
538.273	3090-0163, 3090-0235, 3090-0248, 3090-0250, 3090-0302, 3090-0303, 3090-0306
542.1107	3090-0027
546.302	3090-0027
552.204-9	3090-0283, 3090-0287
552.211-13	9000-0026
552.211-70	9000-0062
552.211-77	3090-0246
552.215-73	3090-0163
552.216-72	3090-0248
552.216-73	3090-0248
552.216-75	3090-0306
552.223-72	3090-0205
552.232-5	3090-0080, 9000-0073
552.232-72	3090-0080
552.236-15	9000-0062
552.236-72	3090-0308

GSAR Reference	OMB Control No.
552.236-79	3090-0320
552.236-80	9000-0034
552.238-72	3090-0163
552.238-73	3090-0250
552.238-74	3090-0250
552.238-77	3090-0250
552.238-78	3090-0262
552.238-80	3090-0235, 3090-0306
552.238-81	3090-0235, 3090-0306
552.238-82	3090-0302
552.238-83	3090-0235, 3090-0306
552.238-84	3090-0303
552.238-85	3090-0235, 3090-0306
552.238-86	3090-0250
552.238-87	3090-0303
552.238-91	3090-0250
552.238-95	3090-0303
552.238-96	3090-0303
552.238-97	3090-0303
552.238-99	3090-0303
552.238-100	3090-0250
552.238-103	3090-0248
552.238-104	3090-0250
552.238-107	3090-0250
552.238-108	3090-0250
552.238-111	3090-0303
552.238-118	3090-0303
552.238-119	3090-0303
552.238-120	3090-0235, 3090-0306
552.242-70	3090-0027
552.246-70	3090-0027
552.246-71	3090-0027

GSAR Reference	OMB Control No.
552.270-1	3090-0086
552.270-33	3090-0324
552.270-35	9000-0189
570.702	3090-0086
570.703	3090-0324
570.802	3090-0086
GSA-176	3090-0287
GSA-308	3090-0027
GSA-527	3090-0007
GSA-850	3090-0283
GSA-1142	3090-0080
GSA 1217	3090-0086
GSA-1364	3090-0086
GSA-1678	3090-0027
GSA-2419	9000-0102
GSA-3665	3090-0283
GSA-7437	3090-0274

PART 502 - DEFINITIONS OF WORDS AND TERMS

Sec.

Subpart 502.1 - Definitions

502.101 Definitions.

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PART 502 - DEFINITIONS OF WORDS AND TERMS

Subpart 502.1 - Definitions

502.101 Definitions.

"AbilityOne Representative (ABOR)" means a designated individual within the agency who is the lead advocate for federal buying in accordance with mandatory source contracting procedures, engages with the workforce to build use of the AbilityOne Program, and offers feedback to the U.S. AbilityOne Commission to improve the value of the AbilityOne Program. GSA has an Agency level ABOR and each Service (*i.e.*, FAS and PBS) has a Service level ABOR. Information about the GSA ABORs is available on the AbilityOne Program page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

"Acquisition Career Manager (ACM)" means the GSA agency official within the Office of Acquisition Policy that has been appointed by the CAO, or designee, to lead the agency's acquisition career management programs.

"Acquisition Career Navigator (ACN)" means an individual designated in writing by the Head of the Contracting Activity to lead the implementation of acquisition career management functions described in (b)(5). These officials serve within the limits of their delegated authority per . Acquisition Career Navigators are identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

"Agency Advocate for Competition" means the Director, Office of General Services Acquisition Policy, Integrity, and Workforce within the Office of Acquisition Policy.

"Agency labor advisor" means the Director of the General Services Acquisition Policy Division within the Office of Acquisition Policy.

"Assigned counsel" means the attorney in the Office of General Counsel (including offices of Regional Counsel) assigned to provide legal review or assistance.

"Acquisition Subject Matter Expert (A-SME)" means a member of the acquisition workforce designated in writing by the Head of the Contracting Activity who is knowledgeable in one or more key acquisition areas, including small business, labor, and cybersecurity, as described in (b)(7). The A-SME should have expertise demonstrated by years of experience focused on the subject matter, a credential or other specialized training. A-SMEs are identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

"Acquisition Workforce (AWF)" means individuals who perform various acquisition-related functions to support the accomplishment of an agency's mission. Acquisition, pursuant to 41 U.S.C. 403, includes, among traditional contracting functions, requirements definition, measurement of contract performance, and technical and management direction. Membership in the AWF may be on a full-time, part-time, or occasional basis.

(a) Members of the AWF may include:

(1) Individuals who are substantially involved in defining, determining, and managing acquisition requirements,

(2) Individuals involved in acquisition planning and strategy,

(3) Individuals who participate in the process of establishing the business relationship to obtain needed goods and services (e.g., contracting process, those involved in the solicitation, evaluation and award of acquisitions),

(4) Individuals who manage the process after business arrangements have been established to ensure that the government's needs are met (*e.g.*, testing and evaluating, managing and monitoring the manufacturing and production activities, auditing, contract administration, performance management and evaluation, etc.),

(5) Individuals who arrange disposal of any residual items after work is complete, (*e.g.*, property management/disposal),

(6) Individuals who support the business processes of the activities listed in this paragraph (*e.g.,* subject matter experts and A-SMEs),

(7) Individuals who have the authority to enter into and administer leases on the Government's behalf,

(8) Individuals who directly manage those involved in any of the activities listed in this paragraph.

(b) At a minimum, the acquisition workforce of the agency, includes:

(1) All positions in the general schedule contracting series (GS-1102), realty series (GS-1170), and other series, as identified by the Chief Acquisition Officer, Senior Procurement Executive or Head of Contracting Activity.

(2) All contracting officers (CO) regardless of general schedule series with authority to obligate funds above the micropurchase threshold.

(3) All positions in the general schedule purchasing series (GS-1105).

(4) Program and project managers, as identified by the Chief Acquisition Officer (CAO), the Senior Procurement Executive, or HCA.

(5) All Contracting Officer's Representatives (CORs) or equivalent positions.

(6) Any significant acquisition-related positions identified by the CAO, Senior Procurement Executive or Head of Contracting Activity, or equivalent, using the guidance provided in this paragraph.

"Chief Acquisition Officer" (CAO) has the meaning as defined in FAR 2.101 and is identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

“Contracting Activity Advocate for Competition” means an individual designated in writing by the Head of the Contracting Activity to execute the duties and responsibilities as prescribed by FAR 6.502. Advocates for competition are identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

“Commercial supplier agreements” means terms and conditions customarily offered to the public by vendors of supplies or services that meets the definition of “commercial products and commercial services” set forth in FAR 2.101 and intended to create a binding legal obligation on the end user. Commercial supplier agreements are particularly common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any product or service. The term applies–

(a) Regardless of the format or style of the document. For example, a commercial supplier agreement may be styled as standard terms of sale or lease, Terms of Service (TOS), End User License Agreement (EULA), or another similar legal instrument or agreement, and may be presented as part of a proposal or quotation responding to a solicitation for a contract or order;

(b) Regardless of the media or delivery mechanism used. For example, a commercial supplier agreement may be presented as one or more paper documents or may appear on a computer or other electronic device screen during a purchase, software installation, other product delivery, registration for a service, or another transaction.

“Contracting Director” means an individual designated in writing by the Head of the Contracting Activity responsible for performing contracting functions as described in . Contracting directors are identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

“Contracting Executive” means a civilian serving in a position in a grade above GS-15 under the General Schedule (or in a comparable or higher position under another schedule) designated in writing by an HCA with the authority to perform contracting functions as described in . Contracting Executives can be found on the Acquisition Contacts and Offices page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

“Debarring official” or “suspending official” means the individual designated as GSA’s Suspension & Debarment Official.

"Economic price adjustment (EPA) method" means the agreed upon procedure by which pricing may be adjusted throughout the contract period to include, but not limited to, the mechanism(s) to be used to adjust pricing (*e.g.*, adjustments based on established pricing), the pricing subject to adjustment, and any other requirements (*e.g.*, timing, frequency, limits on increases).

“GSA Information System” means an information system owned or operated by the U.S. General Services Administration or by a contractor or other organization on behalf of the U.S. General Services Administration including:

(1) “Cloud Information System” means information systems developed using cloud computing. Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (*e.g.*, networks, servers, storage, applications) that can be rapidly provisioned and released with minimal management effort or service provider interaction. Cloud information systems include Infrastructure as a Service (IaaS), Platform as a Service (PaaS), or Software as a Service (SaaS). Cloud information systems may connect to the GSA network.

(2) “External Information System” means information systems that reside in contractor facilities and typically do not connect to the GSA network. External information systems may be government owned and contractor operated or contractor owned and operated on behalf of GSA or the Federal Government (when GSA is the managing agency).

(3) “Internal Information System” means information systems that reside on premise in GSA facilities and may connect to the GSA network. Internal systems are operated on behalf of GSA or the Federal Government (when GSA is the managing agency).

(4) "Low Impact Software as a Service (LiSaaS) System" means cloud applications that are implemented for a limited duration, considered low impact and would cause limited harm to GSA.

(5) "Mobile Application" means a type of application software designed to run on a mobile device, such as a smartphone or tablet computer.

"Head of the agency" means the official who has been delegated as the Head of the Contracting Activity. Under Section 309 of the Federal Property and Administrative Services Act, the GSA Administrator authorized HCA's to act as agency head to facilitate procurement of property and services under Title III of the Act. If statute, regulations or policies (e.g., FAR 6.302-7) preclude such action, agency head authority remains with the GSA Administrator.

"Head of the Contracting Activity (HCA)" means the official who has overall responsibility for managing the contracting activity. These officials serve within the limits of their delegated authority per 501.601. HCAs are identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(a) For GSA, the GSA Administrator has delegated the authority to the Senior Procurement Executive (SPE).

(b) The SPE has redelegated the authority to the Chief Administrative Services Officer (CASO) and the Commissioners and Deputy Commissioners of the Federal Acquisition Service (FAS) and the Public Buildings Service (PBS). The CASO may not re-delegate the authority. The FAS and PBS Commissioners and Deputy Commissioners may re-delegate the authority down one level.

(c) Redelegations made by FAS and PBS are identified on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(d) If statute, regulations or policies (e.g., FAR 6.302-7) preclude an agency head delegating authority, HCA authority remains with the GSA Administrator.

"IN-Depth Feedback through Open Reporting Methods (INFORM)" means GSA's enhanced debrief and explanation communication procedures detailed in 515.370.

"Information System" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"Packaging" means the material used to protect an item. Packaging includes, but is not limited to: brand packaging, grouped packaging, shipping packaging, ancillary packaging, and redundant packaging.

(1) Brand packaging, sales packaging or primary packaging means packaging intended to provide the user or consumer with the individual unit of the product, such as plastic casing.

(2) Grouped packaging or secondary packaging means packaging intended to bundle, sell in bulk, brand, or market/display products.

(3) Shipping packaging means packaging that serves as protection for the goods to ensure safe transport to the end customer, including:

(i) Ancillary packaging or transport packaging or tertiary packaging means packaging intended to secure the product, such as packing peanuts, wrapping materials, or molded materials. Ancillary packaging (or all shipping packaging) is typically outside of brand packaging.

(ii) Redundant packaging or unnecessary packaging means packaging that does not add any measurable protection to the supply being shipped, such as multiple layers of bubble wrap to an already durable product that is encased in a cardboard box. An example of this is a home testing kit with all plastic components already packaged in a cardboard box with cardboard inserts to absorb shock, that is then shipped in multiple layers of bubble wrap. In this example the bubble wrap is the redundant single-use plastic packaging.

"Plastic" means a synthetic or semisynthetic material chemically synthesized by the polymerization of organic substances that can be shaped into various rigid and flexible forms, and includes coatings and adhesives. "Plastic" excludes natural rubber or naturally occurring polymers such as proteins or starches.

"Single-use" plastic (SUP) packaging means any plastic used for the containment, protection, handling, delivery, or presentation of goods by a producer for a consumer with the intent of being used once and then discarded, recycled or disposed of immediately after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer. Packaging includes, but is not limited to brand packaging, grouped packaging, shipping packaging, ancillary packaging, and redundant packaging.

"Single-use plastic (SUP) free packaging" means Single-use plastic (SUP) free packaging means product or shipping containment materials free of single-use plastic. Other attributes of single-use plastic free packaging may include the following: use of minimal materials, will be reused multiple times, or produces less emissions compared to traditional

manufacturing or distribution. These additional attributes alone do not qualify as SUP free. Examples may include, but are not limited, to corrugated cardboard, paper products, and paper backed tape.

"Senior procurement executive" means the Deputy Chief Acquisition Officer.

PART 503 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Sec.

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PART 503 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 503.1 - Safeguards

503.101 Standards of conduct.

503.101-3 Agency regulations.

GSA Supplemental Ethical Standards of Conduct appear at 5 CFR 6701.

503.104 Procurement integrity.

503.104-2 General.

"Acquisition official" as defined in FAR 3.104-3(a)(2), are responsible for knowing the post-employment restrictions in FAR 3.104-2(b)(3) and 3.104-3(d).

503.104-4 Disclosure, protection, and marking of contractor bid or proposal information and source selection information.

(a) *Persons authorized access to information*. (1) The following persons may access contractor bid or proposal information and source selection information to accomplish their responsibilities in a procurement action:

(i) Requirements generators, including client agency representatives, and program and technical experts who develop statements of work, specifications or similar documents;

(ii) Contracting personnel supporting the contracting officer;

(iii) Personnel serving on technical evaluation boards or source selection evaluation boards;

(iv) Supervisors in the contracting officer's chain of command;

(v) Secretarial, clerical and administrative personnel of the contracting activity responsible for the procurement;

(vi) Small Business Technical Advisors;

(vii) Small Business Administration (SBA) personnel who review determinations not to set-aside acquisitions, determine the small business status of offerors under FAR 19.302, process applications for Certificates of Competency under FAR 19.6, review subcontracting plans, or award contracts under the 8(a) program;

(viii) Personnel in the Credit and Finance Section of Region 6 and other personnel who support the contracting officer in making contractor responsibility determinations;

(ix) Contract auditors in the Office of Inspector General and Regional Inspector General's offices;

(x) Department of Labor (DOL) personnel who process preaward EEO clearances under FAR 22.805;

(xi) Attorneys in the Office of General Counsel and Regional Counsel's offices; and

(xii) Personnel involved in contract approval.

(2) The Senior Procurement Executive may authorize additional classes of persons access to contractor bid or proposal information or source selection information.

(3) The contracting officer may authorize access to contractor bid or proposal information or source selection information if necessary to conduct the procurement. This includes release of information to outside evaluators under 515.305-70 in accordance with 537.204 and FAR 9.505-5 and 37.204. Limit access to only that information the person needs to do his or her job.

(4) The contracting officer must use the Conflict of Interest Acknowledgement and Nondisclosure Agreement referenced in 515.305-71 to maintain the identity of individuals authorized access to contractor bid or proposal information and source selection information.

(b) *Procedures for marking and protecting information*. Any individual who prepares, makes, or controls contractor bid or proposal information and source selection information must:

(1) Mark documents as prescribed in FAR 3.104-4(c). Each page of the documents must be marked in accordance with FAR 3.104.

(2) Provide physical security for documents in the office environment during, and after, duty hours.

(3) Secure interoffice mailing of documents by using opaque envelopes, "double wrapping" with more than one envelope, and sealing envelopes securely.

(4) Maintain strict control over oral communications about the acquisition.

(c) *Requests for information from Congress*. For requests from a member of Congress, see 505.403.

503.104-7 Violations or possible violations.

(a) The HCA is the individual designated under FAR 3.104-7 (a)(1) to receive information related to a conclusion that a reported or possible violation has no impact on a procurement.

(b) If the HCA receives information describing an actual or possible violation, the HCA must take all of the following actions:

(1) Refer the matter immediately to the Inspector General;

(2) Determine what action to take on the procurement under FAR 3.104-7 (b)–(g); and

(3) Notify the Administrator if he or she determines that urgent and compelling circumstances, or other Government interests, justify the award or modification.

(c) If a contracting officer has not been appointed, the contracting director performs the contracting officer actions defined in FAR 3.104-7.

Subpart 503.2 - Contractor Gratuities to Government Personnel

503.203 Reporting suspected violations of the Gratuities clause.

(a) Employees must report immediately a suspected violation of the Gratuities clause to each of the following:

(1) The contracting officer;

(2) Assistant Inspector General for Investigations or the Regional Special Agent in Charge; and

(3) Deputy Standards of Conduct Counselor.

(b) The report must describe the circumstances under which the Gratuities clause has been violated and include all pertinent documents.

(c) The Office of Inspector General will investigate and, if appropriate, forward a report and recommendation to the Department of Justice, the Senior Procurement Executive, or the Office of General Counsel. See also 5 CFR 6701.107.

503.204 Treatment of violations.

(a) The Senior Procurement Executive, or designee, makes determinations under FAR3.204. The Senior Procurement Executive, or designee, takes all the following actions:

(1) Coordinates with legal counsel;

(2) Initiates proceedings under FAR3.204(a) by notifying the contractor that GSA is considering action against the contractor for a violation of the Gratuities clause. Notice is sent by a certified letter to the last known address of the party, its counsel, or agent for service of process. In the case of a business, notice is sent to any partner, principal officer, director, owner or co-owner; and

(3) Presumes receipt if no return receipt is received within 10 calendar days after mailing the notice.

(b) The contractor has 30 calendar days to exercise its rights under FAR 3.204(b), unless the Senior Procurement Executive, or designee, grants an extension.

(c) If there is a dispute of fact material to making a determination, the Senior Procurement Executive, or designee, may refer the matter to an agency fact-finding official, designated by the Suspension and Debarment Official, in accordance with GSAR 509.403. Referrals for fact-finding are not made in cases arising from a conviction or indictment as defined in FAR 9.403. If a referral is made, the fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts relating to the determinations under FAR 3.204(a)(1) and (2);

(2) Conducts proceedings under rules consistent with FAR 3.204(b);

(3) Schedules a hearing within 20 calendar days of receipt of the referral. The contractor or GSA may request an extension for good cause; and

(4) Delivers to the Senior Procurement Executive, or designee, written findings of fact (together with a transcription of the proceedings, if made) within 20calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.

(d) The Senior Procurement Executive, or designee, may reject the findings of the fact-finding official only if the findings are clearly erroneous or arbitrary and capricious.

(e) In cases arising from conviction or indictment, or in which there are no disputes of material fact, the Senior Procurement Executive, or designee, conducts the hearing required by FAR 3.204(b).

(f) If the Gratuities clause was violated, the contractor may present evidence of mitigating factors to the Senior Procurement Executive, or designee, in accordance with FAR 3.204(b) either orally or in writing, consistent with a schedule the Senior Procurement Executive, or designee, establishes. The Senior Procurement Executive, or designee, exercises the Government's rights under FAR 3.204(c) only after considering mitigating factors.

Subpart 503.3 - Reports of Suspected Antitrust Violations

503.303 Reporting suspected antitrust violations.

The contracting officer shall report evidence of suspected antitrust violations in acquisitions to the Assistant Inspector General for Investigations or the Regional Special Agent in Charge. When appropriate, the Office of Inspector General will investigate and prepare a report and recommendation to the Attorney General and to the Senior Procurement Executive for suspension or debarment consideration.

Subpart 503.4 - Contingent Fees

503.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Employees who suspect or have evidence of violations of the Covenant Against Contingent Fees must report the matter to the contracting officer as well as 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 503.5 - Other Improper Business Practices

503.570 Advertising.

503.570-1 Policy.

GSA policy precludes contractors from making references to GSA contracts in commercial advertising in a manner that states or implies the Government approves or endorses the product or service or considers it superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

503.570-2 Contract clause.

Insert the clause at 552.203-71, Restriction on Advertising, in solicitations and contracts, including acquisitions of leasehold interests in real property, if the contract amount is expected to exceed the simplified acquisition threshold.

Subpart 503.7 - Voiding and Rescinding Contracts

503.703 Authority.

Pursuant to FAR 3.703 and 3.705(b), the authority to void or rescind contracts resides with the Senior Procurement Executive.

503.705 Procedures.

(a) *Contracting officer's actions*:

(1) If a contract is tainted by misconduct, the contracting officer shall consult with assigned counsel to determine if the Government has a common law remedy such as avoidance, rescission, or cancellation.

(2) If the contractor has a final conviction for a violation under 18 U.S.C. 201-224, the contracting officer shall refer the matter to the Senior Procurement Executive under FAR 3.705 and shall—

(i) Identify in the referral the final conviction;

(ii) Include the information required by FAR 3.705(d)(2) through (5); and

(iii) Coordinate the referral with the Office of Inspector General to determine whether to recommend debarment.

(b) Senior Procurement Executive's actions:

(1) Reviews the referral and coordinates with assigned counsel and the contracting activity.

(2) Takes both the following actions, if the official decides to declare void and rescind a contract and to recover the amounts expended and the property transferred:

(i) Issues the notice required by FAR 3.705; and

(ii) Conducts the hearing contemplated by FAR 3.705(c)(3).

(3) Refers the matter to the agency fact-finding official, in case of a dispute of material fact about the agency decision. The Senior Procurement Executive makes this referral if the dispute of fact relates to any of the following:

(i) Contracts affected by the final conviction.

(ii) Amounts expended and property transferred by the Government under the affected contracts.

(iii) Identity and value of any tangible benefits received by the Government under the affected contracts.

(4) Issues GSA's final decision under FAR 3.705(e) after receiving the fact-finding official's report, if a referral was made. The Senior Procurement Executive may reject the fact-finding official's findings only if they are clearly erroneous or arbitrary and capricious. The Senior Procurement Executive may explain any such rejection in writing.

(5) Coordinates the final decision with the contracting activity and provides the activity a copy of the decision.

(c) *Fact-finding official's actions*: The fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts.

(2) Conducts the proceedings under rules consistent with FAR 3.705(c)(3).

(3) Schedules a hearing within 20 calendar days after receiving the referral. The official may grant extensions for good cause at the request of the contractor or GSA.

(4) Delivers written findings of fact to the voiding and rescinding official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.

(5) Coordinates the final decision with the contracting activity and provides the activity a copy of the decision.

Subpart 503.8 - Limitation on the Payment of Funds to Influence Federal Transactions

503.806 Processing suspected violations.

Evidence of suspected violations of 31 U.S.C. 1352, Limitation on the Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions, should be submitted to the Assistant Inspector General for Investigation or the Regional Special Agent in Charge. When appropriate, the Office of Inspector General will investigate and prepare a report and recommendation to the Department of Justice.

Subpart 503.10 - Contractor Code of Business Ethics and Conduct

503.1004 Contract clauses.

(a) In accordance with FAR 3.1004(b)(1)(i), GSA has established a lower threshold for the inclusion of FAR clause at 52.203-14. Insert the clause in solicitations and contracts funded with disaster assistance funds expected to be at or above $1,000,000.

(b) The information required by FAR 3.1004(b)(2) is as follows:

(1) *Poster*. GSA Office of Inspector General "FRAUDNET HOTLINE".

(2) *Contact information*. The Contractor can obtain the poster from the Contracting Officer.

PART 504 - ADMINISTRATIVE MATTERS

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504.103 [Reserved].
Subpart 504.2 - Contract Distribution
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PART 504 - ADMINISTRATIVE MATTERS

Subpart 504.1 - Contract Execution

504.101 Contracting officer's signature.

Contract, contract modifications, blanket purchase agreements, and task and/or delivery orders may be executed manually or electronically using a digital signature. In the absence of the original contracting officer, another contracting officer with appropriate warrant authority may sign. Always type or stamp the name and title of the contracting officer signing the contract on the document, unless it is electronically signed. An electronic contract which includes the name of the contracting officer satisfies the typed, stamped or printed requirement found in FAR 4.101. GSA Order CIO 2162.2, GSA Digital Signature Policy, is the guidance for the use of digital signatures as the preferred means of providing signatures for GSA documents, forms, correspondence, and emails.

504.103 [Reserved].

Subpart 504.2 - Contract Distribution

504.201 Procedures.

(a) The contracting officer must send documentation to the paying office on all contracts for which GSA generates a delivery or task order.

(1) For Federal Acquisition Service contracts entered into the FSS-19 system, the contracting officer must send a system generated contract listing.

(2) For all other contracts, the contracting officer must send a "Duplicate Original" of the entire contract or modification.

(b) The contracting officer must certify that the "Duplicate Original" is a true copy of the contract, modification, task and/or delivery order, if not electronically signed, by writing your signature, in ink, on the award or modification form (i.e., SF 26, 33, 1442, etc.). The contracting officer must certify all contracts except:

(1) Leases of real property.

(2) Schedule contracts.

(3) Standard or GSA multipage purchase/delivery/task order carbon forms.

504.203 Taxpayer identification information.

FAR 4.203(a) does not apply to leases of real property (see 504.904) or FAR 38 Federal Supply Schedule Contracting.

Subpart 504.4 - Safeguarding Classified Information Within Industry

504.402 General.

(a) This subpart prescribes procedures for safeguarding classified information required to be disclosed to contractors in connection with the solicitation of offers, and the award, performance, and termination of contracts.

(b) As used in this subpart, the term "Contractor(s)" means prospective contractors, subcontractors, vendors, and suppliers.

504.470 Acquisitions involving classified information.

HCA's must consider how adequate security will be established, maintained, and monitored before accepting a reimbursable agreement for a requirement involving classified information. Further, HCAs are responsible for ensuring that the contracting officers, other procurement personnel, and contracting officer representatives (CORs) assigned to the acquisition have the appropriate security clearances, prior to accepting a reimbursable agreement involving access to, or generation of, classified information.

504.470-1 [Reserved].

504.470-2 [Reserved].

504.471 Processing security requirements checklist (DD Form 254).

(a) The contracting officer must prepare DD Form 254, Contract Security Classification Specification (illustrated in FAR 53.303-DD-254), for contracts involving contractor access to classified information. This form identifies for contractors the areas of classified information involved. The contracting officer may use written notice of classification for research or service contracts.

(b) Obtain instructions or guidance on completing DD Form 254 from the Security and Emergency Management Division, Office of Mission Assurance (OMA).

504.472 Periodic review.

(a) The contracting officer in coordination with the appropriate program security officer must review DD Form 254 at least once a year, or whenever a change in the phase of performance occurs, to determine if the classified information can be downgraded or declassified.

(b) The contracting officer must inform the contractor of the results of the review by one of the following means:

(1) Issuance of a revised specification.

(2) Written instructions instead of DD Form 254, if authorized.

(3) Written notification if the review results in no change in the classification specifications.

(c) The contracting officer must prepare a final checklist upon termination or completion of the contract in accordance with FAR 4.805-5.

504.473 Recurring procurement.

The contracting officer must prepare a new DD Form 254 only if a change occurs in either of the following:

(a) End item.

(b) Previous security classification.

504.474 Control of classified information.

(a) The contracting officer must record, mark, handle, and transmit classified information in accordance with the requirements of the Security Branch Chief, Security and Emergency Management Division, Office of Mission Assurance (OMA).

(b) The contracting officer must obtain the consent of the originating agency before releasing classified information to a contractor.

504.475 Return of classified information.

(a) Contracting officers must recover classified information, unless it has been destroyed as provided in Section 7 of Chapter 5 of the National Industrial Security Program Operating Manual (NISPOM). Information on NISPOM can be found at https://fas.org/sgp/index.html.

(b) Contracting officers must ensure that classified information provided by the government is returned immediately after any of the following events:

(1) Bid opening or closing date for receipt of proposals by non-responding offerors.

(2) Contract award by unsuccessful offerors.

(3) Termination or completion of the contract.

(4) Notification that authorization to release classified information has been withdrawn.

(5) Notification that a facility:

(i) Does not have adequate means to safeguard classified information; or

(ii) Has had its security clearance revoked or inactivated.

(6) Whenever otherwise instructed by the authority responsible for the security classification.

(c) The Government agency that provided classified information to a GSA contractor is responsible for the return of the information.

504.476 Breaches of security.

GSA employees responsible for the protection of classified information must refer the facts of an unauthorized disclosure promptly to Security Branch Chief, Security and Emergency Management Division, Office of Mission Assurance (OMA).

Subpart 504.5 - Electronic Commerce in Contracting

504.500 [Reserved].

504.502 Policy.

Use of electronic signatures is encouraged and can be used to sign and route documents in GSA's IT systems to contractually obligate funds. The method of authentication used for electronic signatures shall be consistent with the level (1-4) determined from the e-authentication risk assessment in accordance with OMB M-04-04, E-authentication Guidance for Federal Agencies, and the respective technology safeguards applicable to that level or risk from National Institute of Standards and Technology 800-63, Electronic Authentication Guideline.

504.570 [Reserved].

Subpart 504.6 - Contract Reporting

504.604 Responsibilities.

In accordance with FAR 4.604, the Senior Procurement Executive (SPE) has implemented the following policies to monitor and ensure the accurate and timely input of data into FPDS. Additional guidance is available on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(a) *Contract writing systems*. (1) The responsibility of the contracting officer to report awards in FPDS per FAR 4.604 may be accomplished by a contract writing system that reports the contract action directly to FPDS.

(2) Contract writing systems capable of reporting directly into FPDS shall be configured to report as a condition of making an award.

(3) Contract actions reported through contract writing systems shall be routinely examined and compared to data contained in FPDS to ensure that those actions have been reported accurately to FPDS.

(b) *Quarterly Reviews*. (1) The HCAs are responsible for the following:

(i) Establishing a selection methodology for an appropriate random sample of contract files for review that is representative of their Service's contract actions. The sample does not need to be statistically significant.

(ii) Verifying and validating the accuracy of contract action reports (CARs) entered into FPDS through the reviews.

(iii) Submitting a certification of the accuracy of the CAR data to the Chief Acquisition Officer (CAO). Certifications are due no later than 30 business days after the end of the quarter.

(2) Any data discrepancies identified in the contract file during the verification and validation process shall be corrected.

(3) File selection and review may begin immediately after the end of each quarter using the selection methodology determined by the HCA in paragraph (b)(1)(i) of this section.

(c) *Annual Reviews*. (1) In accordance with FAR 4.604(c), the CAO shall annually sample the GSA FPDS records and provide a list of transactions to each HCA for verification, validation, and certification.

(2) The verification and validation shall be conducted by an organization or person that did not award the contracts being reviewed. HCAs may institute any appropriate process that complies with this requirement.

(3) The process to verify and validate shall include comparisons of contract file data to FPDS data entries and comparisons of FPDS data to contract writing system data to determine completeness and accuracy, if applicable.

(4) HCAs shall provide certifications of the accuracy and validity of their FPDS data to the CAO based on the list of transactions provided to HCAs under paragraph (c)(1) of this section.

(5) Certifications to the CAO shall include a description of the means used to verify the accuracy and completeness of the data and a statement that all discrepancies found have been corrected.

504.605 Procedures.

(a) *Uniform procurement instrument identification*. This subpart:

(1) Prescribes procedures for identifying contracts, orders, and other procurement instruments regardless of dollar threshold.

(2) Applies to all contracting activities, except real property leasing.

(b) *Transition of procurement instrument identifier (PIID) numbering.*

(c) *Policy*. (1) Contracting officers shall use the uniform PIID numbering requirements for procurement instruments reported to FPDS.

(2) Complete the contract number block provided on the applicable forms. If a space is not reserved for the prescribed number, place the number in the upper right-hand corner of the form.

(3) Each contracting office must maintain records to ensure continuity and control of PIID numbering.

(d) *Activity Address Codes (AACs).*

(1) AACs are made up of the following:

(i) The first two characters of the AAC must be "47" to identify GSA.

(ii) The third character must be the service/office code identified as follows:

Service/Office Code	Letter Designation
Office of the Administrator	A
Office of the Chief Financial Officer	B
Office of Human Resources Management	C
Office of Mission Assurance	D
Office of Small Business Utilization	E
Office of GSA IT	F
Civilian Board of Contract Appeals	G
Office of Administrative Services	H
Office of Inspector General	J
Office of General Counsel	L
Office of Governmentwide Policy	M
Public Buildings Service	P
Federal Acquisition Service	Q
Congressional & Intergovernmental Affairs	S
Office of Communications and Marketing	Z

(iii) The remaining characters are determined by each service organization, and can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(2) Central Service Point (CSP) individuals are responsible for establishing and updating AAC assignments in the Department of Defense Activity Address Directory (DoDAAD). Additional guidance on AAC assignments and updates can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

504.605-70 Federal Procurement Data System Public–Access to Data.

(a) *The FPDS database*. The General Services Administration awarded a contract for creation and operation of the Federal procurement Data System (FPDS) database. That database includes information reported by departments and agencies as

required by FAR subpart 4.6. One of the primary purposes of the FPDS database is to provide information on Government procurement to the public.

(b) *Fee for direct hook-up*. To the extent that a member of the public requests establishment of real-time integration of reporting services to run reports from another application, a one-time charge of $2,500 for the original integration must be paid by the requestor. This one-time charge covers the setup and certification required for an integrator to access the FPDS database and for technical assistance to help integrators use the web services. The fee will be paid to the FPDS contractor and credited to invoices submitted to GSA by the FPDS contractor.

504.606 Reporting Data.

(a) *Reporting requirements*. Detailed specification of FPDS data reporting requirements is contained in the FPDS-NG FAQs document available at https://www.fpds.gov/. Reporting offices are encouraged to use automated information systems for FPDS data reporting, provided that the systems contain all required FPDS data elements via the machine-to-machine process and the automated acquisition system has received the proper certification from the FPDS system manager.

(b) The GSA FPDS Sustainability Coding Guidelines found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal must be followed when selecting codes for the following sustainability data elements:

(1) Recovered Materials/Sustainability.

(2) Use of EPA Designated Products.

(c) FPDS reporting for acquisitions supporting customer agencies. (1) *GSA-funded acquisitions*. There are instances where GSA conducts an acquisition in support of a customer agency but also provides the predominance of funding for the contract award. In these instances, GSA's Activity Address Codes (AACs) must be used for the contracting agency codes (e.g. Contracting Office ID) and funding agency codes (*e.g.* Funding Office ID) in FPDS. Examples of GSA funded acquisitions may include those made in support of—

(i) Requisitions. These transactions are transfers of property conducted in accordance with the Federal Property Management Regulation (FPMR) (41 CFR 101-26). Examples of programs that facilitate requisitions from customer agencies include GSA stock supply programs and GSA motor vehicle purchasing. Customer agencies submit requisitions (sometimes referred to as "orders") to GSA for items under these programs in accordance with the FPMR. GSA then acquires these items from suppliers through contracts or orders in accordance with the FAR and GSAM.

(ii) Shared Services. Under this model, common administrative services-those activities that are common across all agencies-are conducted by an agency (*e.g.* shared service provider) with expertise in a particular area to reduce duplication and redundancy. In turn, the customer agency reimburses the shared service provider for its costs. Often, shared service providers must conduct acquisitions in order to provide services to other agencies. Accordingly, only the contract/order awarded by the shared service provider to a contractor is reported in FPDS.

(2) *Customer-funded acquisitions*. There are instances where GSA conducts an acquisition in support of a customer agency but the customer agency provides the predominance of funding for the contract action. In these instances, GSA's AACs must be used for the contracting agency codes (*e.g.* Contracting Office ID) but the customer agency's AACs must be used for funding agency codes (e.g. Funding Office ID) in FPDS. Examples of customer-funded acquisitions may include—

(i) Reimbursable Work Authorizations (RWAs). An RWA is an interagency agreement between GSA and a tenant (*e.g.* federal agency or non-federal source when authorized by statute) whereby GSA recovers its costs for altering, renovating, repairing, or providing services in GSA-managed space over and above the basic operations financed through rent paid by the tenant.

(ii) Assisted acquisitions (see definition at FAR 2.101). GSA regularly acts as the servicing agency in this type of interagency acquisition, where it performs acquisition activities on a customer (requesting) agency's behalf, such as awarding and administering a contract, while the requesting agency provides the required funding.

(d) *Inherently Governmental Functions*. If the procurement is for services, enter the appropriate indicator in the Inherently Governmental Functions field:

(1) "Closely Associated" means functions that are closely associated with inherently governmental functions; those contractor duties that could expand to become inherently governmental functions without sufficient management controls or oversight on the part of the Government. Office of Federal Procurement Policy (OFPP) Policy Letter 11–01, Performance of Inherently Governmental and Critical Functions, provides examples of work that is inherently governmental and therefore must be performed by Federal employees and work that is closely associated with inherently governmental functions that may be performed by either Federal employees or contractors.

(2) “Critical Functions” means functions that are necessary to the agency being able to effectively perform and maintain control of its mission and operations. Typically, critical functions are recurring and long-term in duration.

(3) “Other Functions” means neither “Closely Associated Functions” nor “Critical Functions.”

(4) For services that include performing both “Closely Associated” and “Critical Functions,” select “Closely Associated, Critical Functions.”

Subpart 504.8 - Government Contract Files

504.800 Scope of subpart.

(a) This subpart prescribes a contract file format standard for all contracts that exceed the micro-purchase threshold. This subpart may be applied to purchases at or below the micro-purchase threshold.

(b) The purpose of this standard is to ensure that the documentation in the file complies with FAR 4.801(b)(1) and FAR 4.802(c) requirements.

504.802 Contract files.

(a) Contract files shall be maintained electronically, unless otherwise determined, in writing, by the HCA to be prohibitively burdensome.

(b) The contracting officer must place all information and documentation required by FAR 4.802 and 4.803 in the contract file and organize the file in the format as set out in each individual contracting activity's contract file standard.

(c) Contracting officer responsibilities.

(1) The contracting officer is responsible for the official contract file. Individuals creating documents relating to the contract must provide those documents to the contracting officer for inclusion in the file. Other members of the acquisition team may be responsible for the maintenance and archival of any delegated responsibilities (*e.g.*, contract administration and delegated contract administration function) according to prescribed contracting activity policies and procedures.

(2) The contracting officer shall-

(i) Place all information and documentation required by the FAR (see FAR subpart 4.8), the GSAM, and any other policy and procedure in the contract file.

(ii) Include an index or checklist identifying the location of any documentation contained in the contract file when such identification is not already prescribed by policy. The index or checklist can be electronic.

(iii) Identify in a clear and logical manner, within the contract file, any documentation maintained in another location.

(iv) Comply with applicable file and document naming convention/nomenclature requirements.

(3) When responsibility for a contract transfer from one contracting officer to another contracting officer (*e.g.*, employee departure, transfer of assignments, or redelegation of contract administration authority (intraoffice or interoffice))-

(i) The successor contracting officer shall review the files being transferred. The purpose of the review is to identify any issues with the contract file (*e.g.*, missing or incomplete documentation or information).

(ii) The successor contracting officer shall attempt to resolve any issues identified during their review of the transferred files. The successor contracting officer should write a memo-to-file that documents any issues with the contract file that were not able to be resolved as part of the transfer.

(d) Head of contracting activity responsibilities. Head of contracting activities consistent with their delegated authorities are responsible for-

(1) Developing policies and procedures that discuss, at a minimum, the following:

(i) The different types of files identified in FAR 4.801(c) along with any other files that are to be established (*e.g.*, unsolicited proposals);

(ii) The location where file documentation is to be stored (*e.g.*, an electronic contract filing system, another official system of record, or some type of combination thereof). If file documentation must be stored in different locations, the policy and procedure shall discuss the rationale for the need (*e.g.*, separation of classified and unclassified documentation) and medium (*e.g.*, paper) to be used;

(iii) The approach used to identify the documents to be retained within a contract file (see FAR 4.803) and any other files established per paragraph (d)(1)(ii) of this section (*e.g.*, use of a checklist or index that includes the citation of the authority for retaining a document);

(iv) The organization(s) or individual(s) responsible for maintaining file documentation when such responsibility does not reside with the contracting officer (see 504.802(b));

(v) The filing and document convention/nomenclature to be used;

(vi) The content, access, and other applicable requirements for contracting officer representative (COR) contract files (see FAR 1.604) and any other files (see paragraph (a) of this section); and

(vii) The internal controls (*e.g.* quarterly review by the contracting activity) to be used for ensuring compliance with FAR, GSAM, and other requirements.

(2) Designating a point of contact within its organization for purposes of supporting file audits and reviews by internal and external organizations (*e.g.*, the Procurement Management Review (PMR) office). Support may include, but not be limited to:

(i) Providing copies of applicable policies and procedures;

(ii) Assisting in resolving issues (*e.g.*, locating a contract file) and questions;

(iii) Providing access to files and systems; and

(iv) Notifying the contracting officer of the status of the review or audit.

504.803 Contents of contract files.

In addition to the examples of contract file documents described in FAR 4.802 and listed in FAR 4.803, the contract file shall include, if applicable, the following:

(a) GSA Form 2689 (see 519.502-70 for applicability), and

(b) Checklist documenting review of the small business subcontracting plan (see 519.705-4 for applicability).

(c) Documents required by individual contracting activity in accordance with such activity's internal policies and procedures.

504.804 Closeout of contract files.

504.804-5 Procedures for closing out contract files.

(a) *Contracting Officer Responsibilities Upon Evidence of Physical Completion.* Upon receipt of evidence of physical completion of a contract, the contracting officer must, within 14 calendar days, ensure input of the status of "physically complete" (or similar) into any contract administration and/or financial systems applicable to the contract.

(b) *Contracting Officer Responsibilities To Reconcile Financial Balances of Physically Completed Contracts.*

(1) Upon receipt of evidence of physical completion of a contract (including those contracts using simplified acquisition procedures), the contracting officer must, within 14 calendar days, determine if any outstanding financial balance exists. The contracting officer may request, as needed, information from the Office of the Chief Financial Officer (OCFO).

(2) The contracting officer must reconcile any outstanding balances (*e.g.*, through discussing final billings with contractors, descoping, deobligating funds, cancelling the contract in whole or in part, or terminating the contract in whole or in part, as applicable). The contracting officer must then take the necessary corrective actions to resolve such financial balances, in coordination with OCFO as needed.

(3) Contracting officers must notify OCFO within 30 days of receipt of evidence of physical completion, of all known or anticipated excess financial balances remaining that meet or exceed $100,000, that have not previously been communicated to OCFO through other means such as regular OCFO data calls. Excess financial balances are any known or anticipated financial balances after receipt and payment of the final invoice or billing from the contractor (*e.g.*, the amount expected remaining to be deobligated or descoped by the contracting officer).

504.805 Storage, handling, and disposal of contract files.

The contracting officer's accountability for contract files ends when the following three conditions exist:

(a) The files' retention period expires.

(b) The contracting officer receives the notice of disposal from the National Archives and Records Administration.

(c) The records liaison officer whose organization has functional responsibility for the files approves disposal.

Subpart 504.9 - Taxpayer Identification Number Information

504.902 General.

(a) *Debt collection*. The Debt Collection Improvement Act of 1996 requires each contractor doing business with GSA to furnish its Tax Identification Number (TIN). The Government is required to include with each certified voucher prepared and submitted to a disbursing official, the TIN of the contractor receiving payment under the voucher. The TIN may be used by the Office of Financial Policy and Operations to collect and report on any delinquent amounts arising out of the contractor's relationship with the Government.

(b) *Information reporting to the IRS*. The TIN is also required for Office of Financial Policy and Operations reporting of certain contract information (see FAR 4.903) and payment information (see GSAM 504.904) to the IRS.

504.904 Reporting contract information to the IRS.

(a) The Office of Financial Policy and Operations reports to IRS on payments made to certain contractors for services performed and to lessors for providing space in buildings. This is required by 26 U.S.C. 6041 and 6041A and implemented in 26 CFR. To assist the Office of Financial Policy and Operations in reporting to the IRS, contracting officers must indicate on obligating documents sent to Finance (*e.g.*, purchase, delivery, or task orders; contracts; or certified invoices) the contractor's organizational structure (*e.g.*, corporation, or partnership) and taxpayer identification number (TIN).

Subpart 504.11 - System for Award Management

504.1103 Procedures.

In addition to the requirements found in FAR 4.1103, prior to awarding a contractual instrument the contracting officer must-

(a) Verify that the prospective contractor’s legal business name, Doing-Business-As (DBA) name (if any), physical street address, and unique entity identifier, as found in the System for Award Management (SAM), match the information that will be included in the contract, order, or agreement resulting from the vendor's quote or proposal. Correct any mismatches by having the vendor amend the information in the SAM and/or the quote or proposal.

(b) Ensure that the contractor’s address code exists in Pegasys and that it is SAM enabled with the contractor’s unique entity identifier. This can be done by searching Pegasys records using the contractor’s Taxpayer Identification Number (TIN). If no code exists, request that a new address code be established by the Finance Center for SAM compliance.

(c) Ensure that the contractor’s identifying information is correctly placed on the contractual instrument, using special care to ensure that the legal name and “remit to” name match exactly. (Note: Lockbox names or numbers should not be used to replace the contractor’s name in the remittance block on the contractual instrument.)

(d) Unless one of the exceptions to registration in SAM applies (see FAR 4.1102(a)), the contracting officer must not award a contract to a prospective contractor who is not registered in SAM. If no exceptions are applicable, and the needs of the requiring activity allows for a delay in award, see FAR 4.1103(b)(1).

Subpart 504.13 - Personal Identity Verification of Contractor Personnel

504.1301 Policy.

Contracting officers must follow the procedures contained in CIO P2181.1 - GSA HSPD-12 Personal Identity Verification and Credentialing Handbook, which may be obtained from the CIO Office of Enterprise Solutions, to ensure compliance with Homeland Security Presidential Directive-12 (HSPD-12) “Policy for a Common Identification Standard for Federal Employees and Contractors,” Office of Management and Budget Memorandum M-05-24, and Department of Commerce FIPS PUB 201.

504.1303 Contract clause.

Insert the clause at 552.204-9, Personal Identity Verification Requirements, in solicitations and contracts when it is determined that contractor employees will require access to federally controlled facilities or information systems to perform contract requirements.

504.1370 GSA Credentials and Access Management Procedures.

(a) General.

The CIO P 2181.1 - GSA HSPD-12 Personal Identity Verification (PIV) and Credentialing Handbook includes guidance for–

(1) Managing contract employee credentials;

(2) Ensuring contract employee credentials are returned to the GSA Office of Mission Assurance (OMA) when a contractor employee receives an unfavorable suitability determination, leaves the contract or when a contract ends; and

(3) Disabling access to information technology when a contractor employee leaves the contract or when a contract ends.

(b) Delegating Responsibilities.

(1) Contracting officers must manage PIV cards, also referred to as “GSA Access Cards”, provided to contractor employees. Contracting officers may delegate this authority to a contracting officer’s representative.

(2) If delegated, the contracting officer must ensure any contracting officer's representative delegation letter includes language for credentials and access management responsibilities.

(3) The Government contracting official who requests PIV cards on behalf of a contractor employee is also referred to as a “requesting official” pursuant to CIO P 2181.1.

(4) Standard delegation language can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(c) Required Verifications. There are multiple types of verifications to ensure only contractor employees who require PIV cards have them.

(1) Automated verification.

(i) Contractors and authorized Government contracting officials are automatically notified prior to the end date of the contract period of performance listed in the Office of Mission Assurance (OMA) system GSA Credentialing and Identity Management System (GCIMS). PIV cards will be automatically inactivated 30 days after the period of performance.

(ii) If the contractor requires a PIV card beyond 30 days after the contract period of performance, the authorized Government contracting official must submit a contractor information worksheet (CIW) (GSA Form 850) to update GCIMS, including appropriate justification.

(iii) When a contractor is made inactive in GCIMS, GCIMS will send an email to contractors and authorized Government contracting officials notifying everyone that the contractor PIV card needs to be returned. If the contractor does not comply with the terms of the automated notification, the authorized Government contracting official shall take the actions listed in paragraph (d).

(iv) The contracting officer shall include documentation in the contract file, as necessary.

(2) Manual verification.

(i) Authorized Government contracting officials are required to conduct a PIV card review annually or prior to exercising an option (see 517.207(c)), whichever comes first, to verify the contract information in GCIMS is correct (e.g. contract number, contract period of performance, contractor point of contact).

(ii) Authorized Government contracting officials shall send a letter to contractors to determine the need for continued access of individual employees and for return of PIV cards, requesting a response within no more than 15 business days.

(iii) Authorized Government contracting officials are required to submit a contractor information worksheet (CIW) (GSA Form 850) to update GCIMS, as necessary.

(iv) The contracting officer shall include documentation in the contract file, as necessary.

(d) The authorized Government contracting official shall take the following actions when a contractor fails to return PIV cards.

(1) Withhold Final Payment. COs may delay final payment under a contract if the contractor fails to comply with the PIV card requirements in accordance with paragraph (c) of FAR 52.204-9.

(2) Contractor Performance Assessment Rating System (CPARS). The Contracting Officer shall include within CPARS evaluations instances where a contractor fails to return a PIV card or other Government Furnished Equipment (GFE). This information shall be noted within the narrative of the CPARS "Regulatory Compliance" contractor performance evaluation factor (see subpart 542.15).

(3) Suspension/Debarment Referral Considerations. For willful non-compliance, the CO shall refer the contractor to the Suspension and Debarment Official (SDO). The SDO will review the complaint and decide whether or not action should be taken against the contractor.

(4) Termination Considerations. If the contractor shows a pattern of willful non-compliance regarding PIV card requirements during the performance of the contract (*e.g.*, annual review of PIV cards), the CO may terminate the contract.

(e) The CIO P 2181.1 - GSA HSPD-12 Personal Identity Verification and Credentialing Handbook, as well as additional resources for implementing the credentials and access management requirements, can be found on the Acquisition Portal at: https://insite.gsa.gov/hspd12inprocurement.

Subpart 504.16 - Unique Procurement Instrument Identifiers

504.1603 Procedures.

(a) *Elements of a PIID*. The PIID consists of 13 alphanumeric characters as follows:

Character(s)	Content	Content Description Location	Example
1-6	Activity Address Code	See 504.605	47PA01
7-8	Last Two Digits of Fiscal Year of Number Assignment		15
9	Instrument Code	See 504.1603(b)	F
10-13	Serial Number	See 504.1603(c)	0001

(b) *Procurement Instrument Type Codes*. Indicate the type of instrument consistent with the letter designation provided in FAR 4.1603(a)(3). The letter designations for the identified type of instruments unique to agency policy are identified as follows:

Instrument	Letter Designation
Purchase orders (open market simplified acquisition) - manual	M
Request for information	N
Standing price quote (SPQ)	T

(c) *Serial Number Codes*.

(1) A separate series of numbers may be used for each basic instrument type (see 504.1603(b)).

(2) For delivery or task orders, each order issued by contracting office must receive a consecutive serial number. That is, orders are numbered in sequence as issued by the contracting office, but they are not in sequence under any individual contract.

(3) At the beginning of each fiscal year, the first number assigned is 0001.

(4) Alphanumeric characters are serially assigned after the numeric series is exhausted.

(5) The allowable numeric and alphanumeric sequences, excluding alpha I and O are–

(i) 0001 through 9999;

(ii) A001 through A999, B001 through B999;

(iii) and so on to Z001 through Z999.

(6) Each issuing office is responsible for controlling serial number assignments.

504.1670 Unique identifier for procurements supporting a leasehold interest.

(a) *General*. Procurements supporting a leasehold interest include: architectural and engineering (A&E) design and other related activities, project management, construction, space alterations (irrespective of size or scope), security-related tenant buildout, building-specific security countermeasures, personal (moveable) property, and overtime utilities.

(b) *Procurement Actions*. Any procurement supporting a leasehold interest (including those at or below the micro-purchase threshold), including stand-alone contracts or lease amendments, must reference the associated lease number (8-character number such as LMA00001) in the system of record (e.g., EASi, G-REX, RETA, REXUS, Pegasys) in which that action

is being processed or recorded, and on the procurement document. Data must be recorded in a standardized data field, as appropriate. For systems that do not have the capability to capture the associated lease number, the lease number may be placed on the procurement document itself alone.

(c) *Reimbursable Work Authorizations (RWAs)*.

(1) *RWAs prior to lease award*. For any RWA submissions (including at or below the micro-purchase threshold) where the lease is not yet awarded, the associated lease number (8-character number such as LMA00001) shall be input into the system of record for the RWA and on the procurement document, within 3 business days of the lease award date or the creation of a lease number, whichever is later. Data must be recorded in a standardized data field, as appropriate. For systems that do not have the capability to capture the associated lease number, the lease number may be placed on the procurement document itself alone.

(2) *RWAs after lease award*. For any RWA submissions (including at or below the micro-purchase threshold) where the lease is already awarded, the associated lease number (8-character number such as LMA00001) shall be input into the system of record for the RWA and on the procurement document. Data must be recorded in a standardized data field, as appropriate. For systems that do not have the capability to capture the associated lease number, the lease number may be placed on the procurement document itself alone.

Subpart 504.70 - Cyber-Supply Chain Risk Management

504.7000 Scope of subpart.

This subpart prescribes acquisition policies and procedures for mitigating cyber-supply chain risks of procurements funded by GSA. Procedures in this subpart apply to all GSA-funded contracts and orders, regardless of the estimated value of the solicitation, contract or order, including purchases under the micro-purchase threshold and purchases using a Government Purchase Card.

504.7001 Definitions.

"Cyber-Supply Chain Event" means any situation or occurrence in or to a network, information system, or within the supply chain, not purchased on behalf of another agency, that has the potential to cause undesirable consequences or impacts. Cyber-Supply Chain Events, as they relate to this subpart, can include:

(a) Occurrence of an IT security incident;

(b) Discovery of a prohibited article or source; and

(c) Identification of supply chain risk information.

"Cyber-Supply Chain Risk Management", or "C-SCRM", means management of cyber-related (or, more generally, technology-related) risks in all phases of the acquisition lifecycle and at all levels of the supply chain, regardless of the product(s) or service(s) procured.

"Cyber-Supply Chain Risk Management Policy Advisor" means the identified lead of the Service-level acquisition management (e.g., the Federal Acquisition Service's Office of Policy and Compliance (OPC), the Public Building Service's Office of Acquisition Management (OAM), the Office of Administrative Services).

"IT security incident" means an occurrence that:

(a) Actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system;

(b) Constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies;

(c) Results in lost, stolen, or inappropriately accessed Controlled Unclassified Information (CUI) (including Personally Identifiable Information (PII)), lost or stolen GSA-owned devices (mobile phones, laptops, Personal Identity Verification (PIV) cards), and any other incident included in CIO-IT-Security-01-02); or

(d) Results in a situation that severely impairs, manipulates, or shuts down the operation of a system or group of systems (e.g., Building Automation Systems, Heating, Ventilation, Air Conditioning (HVAC) systems, Physical Access Control Systems (PACS), Advanced Metering Systems, Lighting Control Systems).

"Prohibited article" means any prohibited product, system, or service that the contractor offers or provides to the Government that conflicts with the supply chain terms or conditions of the solicitation or contract (e.g., Federal Acquisition Security Council (FASC) exclusion order, GSA CIO Order, counterfeit items, or FAR provision or clause, including, without

limitation, FAR Clause at 52.204-23, Prohibition on Contracting for Hardware, Software, Products and Services Developed or Provided by Kaspersky Lab and Other Covered Entities, FAR Provision at 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment, and FAR Clause at 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment).

"Prohibited source" means any entity with which the Government may not enter into or renew a contract or from which the Government may not purchase products or services due to conflicts with the supply chain terms or conditions of the solicitation or contract (e.g., FASC exclusion order, GSA CIO Order, FAR provision or clause, contract-specific provision or clause).

"Supply chain risk information" is defined at 41 C.F.R. 201-1.101. Failure of an offeror to meet a solicitation's requirements, including security requirements, will not by itself constitute supply chain risk information.

"Substantial supply chain risk information" means supply chain risk information that leads to any of the following:

(a) Removal of a presumptive awardee from pre-award consideration or competition;

(b) Rejection of a proposed subcontractor;

(c) Removal of a subcontractor from a contract; or

(d) Termination of a contract.

504.7002 Policy.

(a) The Federal Information Security Modernization Act of 2014 (Public Law 113-283) and associated National Institute of Standards and Technology (NIST) guidance requires Federal agencies to manage supply chain risks for Federal information systems and to ensure the effectiveness of information security controls and risks.

(b) The SECURE Technology Act (Public Law 115-390), which includes the Federal Acquisition Supply Chain Security Act of 2018, established the Federal Acquisition Security Council (FASC) to improve executive branch coordination, supply chain information sharing, and actions to address supply chain risks and requires GSA to have a lead representative for the agency.

(c) OMB Circular A-130, "Managing Information as a Strategic Resource," directs agencies to implement supply chain risk management principles to protect against the insertion of counterfeits, unauthorized production, tampering, theft, insertion of malicious software, and poor manufacturing and development practices throughout the system development life cycle.

(d) GSA Information Technology (IT) Security Procedural Guide CIO-IT Security-01-02, "Incident Response (IR)" (including successor policies), provides additional processes and procedures for incident response, as outlined by GSA's Office of the Chief Information Security Officer (OCISO).

(e) GSA Information Technology (IT) Security Procedural Guide CIO-IT Security-21-117, "Office of the Chief Information Security Officer (OCISO) Cyber Supply Chain Risk Management (C-SCRM) Program" (including successor policies), establishes a C-SCRM program within GSA's OCISO and serves as the Tier 2 plan for GSA.

(f) GSA CIO Order 2100.1, "GSA Information Technology (IT) Security Policy" (including successor policies), sets forth GSA's IT security policy and establishes controls required to comply with Federal laws and regulations.

504.7003 General procedures.

(a) GSA contracting activities may discuss supply chain concerns with the relevant Cyber-Supply Chain Risk Management Policy Advisor(s) listed on the GSA Acquisition Portal (http://insite.gsa.gov/cscrm) at any time, including during acquisition planning, requirements development, and post award. Changes to this list shall be reported to spe.request@gsa.gov.

(b) In addition to the Cyber-Supply Chain Events listed in 504.7005, additional risks may require notification to GSA's Office of Mission Assurance (OMA):

(1) Any law enforcement or criminal activity, suspicious packages, or damage to GSA infrastructure should be reported to the GSA Emergency Operations Center (as specified under GSA Order 2400.2) at EOC@gsa.gov or 202-219-0338.

(2) Insider threats, including acts of commission or omission by an insider who intentionally or unintentionally compromises an agency's ability to accomplish its mission (e.g., espionage, unauthorized disclosure of information, any activity resulting in the loss or degradation of departmental resources or capabilities) should be reported to the OMA Insider Threat Program at insider-threat-program@gsa.gov

504.7004 Acquisition Considerations.

(a) *Acquisition Planning*. For cyber-supply chain risk management acquisition planning considerations, see (f).

(b) *Market Research*. For cyber-supply chain risk management market research considerations, see 510.002 (c) and (d)

(c) *Evaluation*. As part of evaluating past performance, review the Contractor Performance Assessment Reporting System (CPARS) for any reported noncompliance with supply chain requirements and/or otherwise evaluate similar past performance information in accordance with the policies and procedures contained in the applicable subpart.

(d) *Pre-award*. Apparent successful offeror. If the apparent successful offeror responds that it "will" provide or "does" use covered telecommunications equipment or services in response to the representation provision at FAR 52.204-24 then, regardless of the offeror's response to the SAM representation provision(s) (e.g., FAR 52.204-26, FAR 52.212-3(v)), clarify with the apparent successful offeror to ensure that it accurately completed the representation(s). After clarifying the apparent successful offeror accurately completed the representation(s), follow the procedures at 504.7005 (c) and consider the following:

(1) If the contracting officer determines that awarding to the apparent successful offeror will result in a violation of the prohibition at FAR 52.204-24(b), the contracting officer should determine that the offeror is not eligible for award and should move to the next offeror in line for award.

(2) If the contracting officer does not identify an eligible offeror, the acquisition team should explore other acquisition strategies, making a partial award, cancelling the solicitation, changing the requirement, or finding another approach that does not involve the use of covered telecommunications equipment or services.

(3) As a last resort, the acquisition team may consider pursuing a waiver for an offeror. The acquisition team should contact the appropriate Cyber-Supply Chain Risk Management Policy Advisor (see 504.7003 (a)) for assistance and coordination. Instructions for requesting a waiver are available on the GSA Acquisition Portal (http://insite.gsa.gov/cscrm).

504.7005 Notification procedures for cyber-supply chain events.

(a) *General*.

(1) For any potential cyber-supply chain event, including occurrence of an IT security incident, discovery of a prohibited article or source, or identification of supply chain risk information, the contracting officer or another acquisition team member must contact the GSA IT Service Desk by phone at 866-450-5250 or by email at ITServiceDesk@gsa.gov.

(i) Do not include source selection sensitive information in the notification to the GSA IT Service Desk.

(ii) Do not include other sensitive information (e.g., IP address, access information such as an account login and password) in the notification to the GSA IT Service Desk. The notification should state that additional information is sensitive and will be provided in person or via a secured method.

(iii) Determining whether the identified issue or potential issue is applicable under the procedures for each event type should not delay the acquisition team member from submitting a notification. When unsure, it is better to notify quickly rather than delay the event notification. The GSA IT Service Desk can assist in defining the event type once submitted.

(b) *Occurrence of an IT security incident*.

(1) If an IT security incident occurs, concerning any GSA information system or data (owned or operated by GSA or by a contractor or other organization on behalf of GSA), regardless of the estimated value of the contract or order, including purchases under the micro-purchase threshold and purchases using a Government Purchase Card, the contracting officer or another acquisition team member must immediately contact the GSA IT Service Desk.

(2) The notification to the GSA IT Service Desk - whether via phone or email - should document as much information as possible, including:

(i) Description, date and time of the incident;

(ii) Whether any PII or contractor-attributional information is affected; and

(iii) Contract information (contract number, contractor name, name of GSA contracting office), as applicable.

(3) Do not delay notifying the GSA IT Service Desk even if all the information requested or considered to be relevant is not available.

(4) Additional guidance is available from the GSA IT Security Procedural Guide CIO-IT Security-01-02, "Incident Response (IR)", and GSA IT Security Procedural Guide CIO-IT Security-21-117, "OCISO Cyber Supply Chain Risk Management (C-SCRM) Program".

(5) After initial notification, GSA IT may request additional information and will work with the notifier to resolve the issue.

(c) *Discovery of a prohibited article or source* .

(1) If a prohibited article or source is discovered within the supply chain of a procurement, regardless of the estimated value of the solicitation, contract, or order, including purchases under the micro-purchase threshold and purchases using a Government Purchase Card, the contracting officer or another acquisition team member must immediately contact the GSA IT Service Desk.

(2) The notification to the GSA IT Service Desk - whether via phone or email - should document as much information as possible, including:

(i) Contract or solicitation information, including contract or solicitation number, contractor or offeror name, and name of GSA contracting office;

(ii) Prohibited article or source name; and

(iii) Reason why prohibited article or source is banned on contract.

(iv) A "critical date," no less than three (3) business days in the future, for when a response from GSA's Supply Chain Review Board is requested.

(3) Do not delay notifying the GSA IT Service Desk even if all the information requested or considered to be relevant is not available.

(4) After initial notification, GSA's Supply Chain Review Board may request additional information and will work with the notifier to resolve the issue.

(i) If the SCRM Review Board has not responded by the "critical date" required by 504.7005(c)(2)(iv), the contracting officer may make a determination without the SCRM Review Board's input, but should seek input and guidance from the appropriate Cyber-Supply Chain Risk Management Policy Advisor (see GSAM 504.7003(a)) and review additional guidance available on the GSA Acquisition Portal (http://insite.gsa.gov/cscrm) prior to making the determination.

(d) *Identification of supply chain risk information*.

(1) If substantial supply chain risk information is identified, or the contracting officer or another acquisition team member including the GSA Information Technology Office (GSA IT) (e.g., Chief Information Officer, Chief Information Security Officer) thinks supply chain risk information should be voluntarily shared with the FASC, the contracting officer or another acquisition team member must contact the GSA IT Service Desk. The GSA IT Service Desk will gather relevant information and share it with the appropriate Cyber-Supply Chain Risk Management Policy Advisor.

(i) Service-level policy may adopt additional procedures to provide acquisition team members with guidance prior to notifying the GSA IT Service Desk.

(2) After initial notification, the appropriate Cyber-Supply Chain Risk Management Policy Advisor may request additional information and will work with the notifier to resolve the issue.

(3) The Cyber-Supply Chain Risk Management Policy Advisors will share information with the Office of Acquisition Policy within OGP.

(4) OGP will share supply chain risk information with relevant GSA offices and personnel, as appropriate, and with the FASC when:

(i) The FASC requests information associated with a particular source, a covered article, or a covered procurement (as defined at 41 U.S.C. 4713(k));

(ii) GSA determines that a substantial supply chain risk associated with a source, a covered article, or a covered procurement exists as described in 41 C.F.R. 201-1.101; or

(iii) GSA identifies supply chain risk management information (including both C-SCRM and non-C-SCRM risks) associated with a source, a covered article, or a covered procurement action and deems such information relevant to share with the FASC.

(e) *Cyber-Supply Chain Event Risk Mitigation*. The contract administration procedures under FAR part 49 (*e.g.,* cure notice, termination for cause, past performance review) can be used as needed to address immediate or future supply chain event concerns. Additional guidance on contract administration procedures is available on the GSA Acquisition Portal (http://insite.gsa.gov/cscrm).

(f) *Past Performance Evaluation*. The contracting officer must report any contractor non-compliance with supply chain requirements within the "Other Areas" portion of any applicable past performance evaluation form.

Subpart 504.71 - Acquisition Reviews

504.7100 Scope of subpart.

This subpart prescribes policies and procedures concerning acquisition reviews. FAR part 18 acquisitions are exempt from this subpart.

504.7101 Purpose.

The purpose of this subpart is to–

(a) Support FAR parts 7, 10, and 11 to ensure requirements meet the needs of the customer, align and support the mission, are acquired efficiently and effectively, and comply with Federal and agency policies and procedures;

(b) Establish a requirement for acquisition reviews for various types of acquisitions and contract actions; and

(c) Promote early and frequent engagement by the SPE.

504.7102 General.

(a) An acquisition review is a type of internal control as well as a best practice that provides an opportunity for collaboration and meaningful conversation amongst members of the acquisition team and stakeholders. Acquisition reviews enable information to be shared early and often during the acquisition life cycle.

(b) The need for an acquisition review should be commensurate with the risk, complexity, and criticality of the acquisition or contract action. Criteria supporting the need for an acquisition review may include the criteria described in (b)(2).

(c) An acquisition may require more than one acquisition review. An acquisition review may occur at any time during the various phases of the acquisition life cycle:

(1) Market research phase;

(2) Acquisition planning phase;

(3) Pre-solicitation phase;

(4) Pre-award phase; and

(5) Post-award phase.

(d) The following are examples of topics that may be a part of an acquisition review:

(1) Requirement details (e.g., description of requirement, period of performance, estimated value);

(2) Market research (e.g., techniques to be used, historical data, commerciality, industry capabilities and practices, potential sources, existing contract vehicles, expected usage by other agencies);

(3) Acquisition strategy (e.g., degree of competition, small business consideration, contract type, category management, proposed evaluation factors);

(4) Business and procurement risks (e.g., project scope, funding, life cycle, compliance, alignment to agency mission, political interest, other external factors or circumstances);

(5) Important policies, procedures, and processes (e.g., IT requirements, customer agency requirements, class deviations, consolidation and bundling analyses, category management requirements);

(6) Pre-award milestones (e.g., existing contract expiration date, planned solicitation date, anticipated date of award);

(7) Debriefings, brief explanations, and other post-award communications;

(8) Contract administration requirements and key activities (e.g., post-award orientation, contractor performance, government property, option renewal or award term review, disposal requirements); and

(9) Post-award milestones, deliverables, and other important information.

504.7103 Head of the contracting activity responsibilities.

The head of the contracting activity consistent with their delegated authority shall establish acquisition policies, procedures and guidance concerning acquisition reviews for their respective organization(s) in support of this subpart.

(a) These acquisition policies, procedures and guidance shall include, but be not limited to:

(1) Commensurate with the risk, complexity, and criticality of the acquisition or contract action–

(i) Pre-award acquisition reviews (e.g., contract review board, peer reviews); and

(ii) Post-award acquisition reviews.

(2) A process for capturing best practices and innovative approaches to share with the acquisition workforce.

504.7104 Acquisitions and contract actions requiring SPE review and approval.

Acquisitions and contract actions requiring SPE review or approval must conduct an acquisition review, consistent with HCA policy established under 504.7103.

(a) *General*. The FAR, GSAM, Acquisition Letters, and other policies and procedures identify acquisitions and contracting actions that require SPE review or approval. The SPE may request review of any acquisition or contract action, in addition to those where SPE review or approval is required.

(1) An HCA may notify the SPE according to paragraph (b) of this section of acquisitions or contract actions that otherwise do not require SPE review or approval. A reason may be to seek assistance, advice, or guidance from the SPE about a potential or planned acquisition, a contract action, or an award.

(b) *Notification.* The SPE shall be notified of acquisitions and contract actions requiring SPE review or approval as early in the acquisition life cycle as possible. Notification shall be sent to spe.request@gsa.gov and include the following information:

(1) Description of the need for SPE involvement (*e.g.,* SPE approval of a consolidation determination);
(2) Description of the requirement, including key dates (*e.g.*, anticipated solicitation date, anticipated award date);
(3) Date(s) of acquisition review(s); and
(4) Any other important information.

(c) *Approval*. Acquisitions and contract actions requiring SPE review or approval shall be sent to spe.request@gsa.gov and include the following information;

(1) Description of the requirement, action required, and due date;
(2) The document(s) requiring SPE review or approval;
(3) Evidence of Service-level concurrences;
(4) Evidence of legal concurrence;
(5) Evidence of other applicable concurrences where applicable (*e.g.*, category manager and OSDBU);
(6) Supporting attachments, if applicable; and
(7) Any other important information.

(d) *Participants*. Acquisition reviews involving the SPE are to include key members of the acquisition team as well as the following participants:

(1) SPE or authorized designee;
(2) Head of the contracting activity or authorized designee;
(3) Office of Small and Disadvantaged Business Utilization; and
(4) Other key stakeholders (*e.g.*, Office of GSA IT for GSA-funded technology acquisitions).

SUBCHAPTER B - COMPETITION AND ACQUISITION PLANNING

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PART 505 - PUBLICIZING CONTRACT ACTIONS

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PART 505 - PUBLICIZING CONTRACT ACTIONS

Subpart 505.1 - Dissemination of Information

505.101 Methods of disseminating information.

If the acquisition is for real property appraisal services estimated to cost $25,000 or more and is not exempt under FAR 5.202 or GSAR 505.202, then the contracting officer must publicize the proposed acquisition in FedBizOpps. (*Note: See part 570 for information regarding publicizing contracts actions for leasehold interests in real property.*)

Subpart 505.2 - Synopses of Proposed Contract Actions

505.202 Exceptions.

The Administrator has determined under section 18(c)(3) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 416 (c)(3)) and Section 8(g)(3) of the Small Business Act, as amended (15 U.S.C. 644(g)(3)) that synopsizing in FedBizOpps is not always appropriate for acquisitions of real property appraisal services. The contracting officer must, publicize such contract actions following the procedures in 505.203.

505.203 Publicizing and response time.

If publicizing in newspapers, ensure that the notice appears at least three calendar days before issuance of the solicitation. Allow at least these minimum response times:

(a) For real property appraisal services valued at less than the applicable Trade Agreements Act (TAA) threshold (see FAR 25.401(b), 10 calendar days prior to receipt of initial offers.

(b) For real property appraisal services valued at or over the applicable TAA threshold, 40 calendar days prior to receipt of initial offers. If the acquisition falls in a general category identified in an annual forecast, the period may be reduced to as few as 10 days.

505.270 Synopsis of amendments to solicitations.

Synopsize in the CBD FedBizOpps any solicitation amendment when the amendment either:

(a) Increases the value of the contract action above the threshold requiring synopsis, or

(b) Makes other non-cardinal changes to the solicitation, such as a new time and date for receipt of offers, minor changes or clarifications to the statement of work.

Subpart 505.3 - Synopses of Contract Awards

505.303 Announcement of contract awards.

Compliance with 505.303-70 fulfills the reporting requirements of FAR 5.303(a).

505.303-70 Notification of proposed substantial awards and awards involving congressional interest.

(a) *Applicability*. This section applies to any proposed award exceeding or estimated to exceed:

(1) $500,000 for a contract under the 8(a)program.

(2) $1,000,000 for a supply contract unless it involves any of the following:

(i) Motor vehicles.

(ii) Supplies with not readily identifiable points of origin.

(iii) Supplies with foreign production points.

(3) $3,500,000 for a design (Architect/Engineer) or construction contract.

(4) $500,000 for any other contract, or class of contract, if a Member of Congress has specifically requested notification of award to a contractor in his/her district or State.

(b) *Notification Procedures*.

(1) The Office of Congressional and Intergovernmental Affairs (OCIA) will provide in writing to the HCA the names of members of Congress (in whose district or State the contractor is located and the work is to be performed), who wish to be notified of any award under subparagraph (a)(4) of this subsection.

(2) Notify OCIA either by:

(i) Electronic mail to *OCIAContracts@gsa.gov*.

(ii) Facsimile to (202) 219-5742.

(iii) Hand delivery to 1800 F Street, NW, Room 6116, Washington, DC 20405.

(3) Except for awards under urgent and compelling circumstances, the contracting officer must provide the notice to OCIA on the day of award and 24 hours before telephonic or e-mail notice (if applicable) is provided to the contractor. If the contracting officer cannot meet this timeframe, the contracting director must notify OCIA by telephone or e-mail.

(4) For awards under subparagraph (a)(4) of this section, provide a copy of the notice to the Regional congressional liaison office.

(c) *Contents of notice*.

(1) Provide the information in accordance with the format at https://www.gsa.gov/reference/forms.

(2) The notification to OCIA may contain sensitive preaward information. The notification must be labeled accordingly. OCIA and regional congressional liaison offices are responsible for the security of such information and will establish procedures governing its release before official notification of award. Unless otherwise authorized by the contracting officer, the release of such information before award is limited to members of Congress and their staff.

(d) *Release of awards*.

(1) The Associate Administrator for OCIA will identify notifications which require priority processing. OCIA will release such notices at the time and date specified by the Associate Administrator.

(2) Unless notified to the contrary, the contracting officer may release awards described in paragraph (a) of this section, or information related to them, after two full workdays (48 hours) from the time and date of notification to OCIA. This is done to ensure that the notification has occurred and contract award has actually taken place. The date/time stamp on the email, facsimile transmission, or hand delivery receipt establishes the time and date of notification.

Subpart 505.4 - Release of Information

505.403 Requests from members of Congress.

(a) The contracting officer shall consult with legal counsel if the response would disclose any of the following:

(1) Classified material.

(2) Confidential business information.

(3) Contractor bid or proposal information or source selection information as defined in FAR 3.104-3.

(4) Information prejudicial to a competitive acquisition.

(b) Refer the proposed response to the HCA and inform the OCIA of the action taken.

Subpart 505.5 - Paid Advertisements

505.502 Authority.

(a) *Newspapers*. The Senior Procurement Executive must approve publication of paid newspaper advertisements in accordance with FAR 5.502(a). Approval is not required if FAR 5.101 or GSAR 505.101 requires publication. Document the contract file with the regulatory citation or written approval to support the use of paid newspaper advertisements.

(b) *Other media*. Advance approval is not required to advertise in other media.

505.503 Procedures.

(a) *Substitute form*. Unless the contracting officer makes an award or order via electronic commerce or by using the Governmentwide commercial purchase card, use GSA Form 300, Order for Supplies and Services.

(b) *Invoice receipt by contracting officer*. After receiving an invoice and proof of advertising from a publisher, radio or television station, or advertising agency, the contracting officer shall take the following actions:

(1) Certify the invoice for payment.

(2) Submit the invoice to Finance.

(3) Retain the proof of advertising in the contract file.

(c) *Invoice receipt by receiving official*. If a receiving official receives an invoice from a publisher, radio or television station, or advertising agency, he or she takes all the following actions:

(1) Prepares a receiving report.

(2) Submits the invoice and receiving report to Finance for payment.

(3) Gives the contracting officer a copy of the receiving report for retention in the contract file.

505.504 Use of advertising agencies.

The services of commercial advertising agencies may be used only if the contracting officer determines that the services rendered by those agencies can either:

(a) Increase competition for contracts; or

(b) Improve the effectiveness of GSA advertising and marketing programs.

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PART 506 - COMPETITION REQUIREMENTS

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Subpart 506.2 - Full and Open Competition After Exclusion of Sources

506.202 Establishing or maintaining alternative sources.

Subpart 506.3 - Other than Full and Open Competition

506.304 Approval of the justification.

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PART 506 - COMPETITION REQUIREMENTS

Subpart 506.2 - Full and Open Competition After Exclusion of Sources

506.202 Establishing or maintaining alternative sources.

An HCA signs determinations and findings required by FAR6.202.

Subpart 506.3 - Other than Full and Open Competition

506.304 Approval of the justification.

(a) *Proposing a class justification*. If you determine that the facts supporting other than full and open competition would be present in other GSA contracting activities, you should propose a class justification. Recommend through appropriate channels that the Senior Procurement Executive approve a class justification for all GSA contracting activities. This does not apply to justifications based on the authority of 41 U.S.C. 253(c)(7), which does not permit class justifications.

(b) *Justifications based on* 41 U.S.C.253(c)(7). For a justification based on the authority of 41 U.S.C. 253(c)(7) (see FAR 6.302-7), submit the justification for the Administrator's approval through the SPE.

(c) *Justifications for contract actions subject to the Agreement on Government Procurement*. When you acquire eligible products without full and open competition using the authority in FAR 6.302-3(a)(2)(i) or 6.302-7, furnish a copy of the approved justification to the SPE at spe.request@gsa.gov. The SPE will transmit the justification to the U.S. Trade Representative.

(d) *Approval for Justifications*. The contracting officer shall obtain approval for justifications for other than full and open competition as required by the approval thresholds in paragraph (e)

(1) Contracting Activity Advocate for Competition approval is required for all justifications for other than full and open competition over $750K.

(2) The contracting officer shall obtain approvals as required by the Service prior to the SPE, as applicable.

(e) *Approval Thresholds*. The following are the minimum approval requirements for justifications. The HCA may further limit approval authority for designated officials or impose lower thresholds. Thresholds include all options.

Threshold	Approving Official
Up to but not exceeding $750K	Contracting Officer
Over $750K to $75M	HCA or Contracting Executive, if applicable
Over $75M	GSA SPE

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PART 507 - [RESERVED]

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PART 508 - REQUIRED SOURCES OF SUPPLIES AND SERVICES

Sec.

508.005 Contract clause.

Subpart 508.4 - Federal Supply Schedules

508.403 Applicability

508.404 Use of Federal Supply Schedules.

508.405 Ordering procedures for Federal Supply Schedules.

Subpart 508.6 - Acquisition from Federal Prison Industries, Inc.

508.604 Ordering procedures.

508.604-70 Delinquent delivery orders.

508.605 Clearances.

Subpart 508.7 - Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

508.700 Scope of subpart.

508.702 General.

508.703 Procurement List.

508.770 AbilityOne Representative (ABOR) responsibilities.

Subpart 508.8 - Acquisition of Printing and Related Supplies

508.802 Policy.

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PART 508 - REQUIRED SOURCES OF SUPPLIES AND SERVICES

508.005 Contract clause.

FAR 8.005 requires contracting officers to include FAR 52.208-9 in solicitations and contracts that require a contractor to provide supplies or services for Government use that are on the Procurement List. Contracting officers shall review requirement documents to determine if the inclusion of this clause is appropriate (see (a)(13)).

(a) For assistance, the GSA ABOR team may be contacted at GSAABOR@gsa.gov. Information about the AbilityOne Program, including use of this clause is available on the GSA AbilityOne Program page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

Subpart 508.4 - Federal Supply Schedules

508.403 Applicability

This section establishes special ordering procedures when considering use of LPTA.

(a) *Evaluation of FSS contract price*. GSA performs a technical evaluation in products and services prior to awarding the item on the FSS contract. This evaluation ensures orders placed against FSS contracts satisfy the requirements of Section 880 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232, 41 U.S.C. 3701).

(b) *Evaluation of order/BPA price*. The contracting officer may base their award determination on the level of effort and price as described in FAR 8.405-2(d) when purchasing services. If the contracting officer is purchasing supplies, price can still be the dominant factor. When purchasing more complex services or supplies, the contracting officer should engage in a best value tradeoff when evaluating the factors.

(1) Personal Protective Equipment (PPE) from a medical context, such as gloves and masks, may be purchased using LPTA. PPE from a law enforcement context, such as body armor, should not be procured through LPTA.

(2) Information technology services should not be procured through LPTA.

(3) Professional services should not be procured on an LPTA basis.

(4) Cyber-security services should not be procured on an LPTA basis.

(c) *Documentation*. Ordering activities may use LPTA when evaluating quotes for FSS orders or BPAs without further justification other than documenting the evaluation methodology per FAR 8.405-2(f)(4). As used in this subpart, issuing an FSS order or BPA does not require the file documentation for LPTA described in GSAM 515.101-2 or GSAM 4 516.505, however the Contracting Officer should appropriately document their award decision as described in FAR 8.405-1(g)(5) and FAR 8.405-2(d).

508.404 Use of Federal Supply Schedules.

(a) Although FAR 19 (except for the requirement at FAR 19.202-1(e)(1)(iii)) does not apply to BPAs or orders placed against Federal Supply Schedule (FSS) contracts, they are not exempt from part 519.

(b) Requests for quotes under FSS contracts that are not set-aside for small business should consider inclusion of a small business participation evaluation factor as described in section 515.304.

508.405 Ordering procedures for Federal Supply Schedules.

(a) For a D&F for a single award Blanket Purchase Agreement (BPA) with an estimated value exceeding $100 million, the D&F must be approved by the HCA

(b) COs shall follow the INFORM procedures in 515.370 for all applicable orders and BPAs.

Subpart 508.6 - Acquisition from Federal Prison Industries, Inc.

508.604 Ordering procedures.

508.604-70 Delinquent delivery orders.

(a) Establish delivery schedules based on the lead time required by Federal Prison Industries (FPI).

(b) You may use delinquent orders as the reason for requesting clearance to procure from other sources until FPI can make deliveries.

508.605 Clearances.

Cite FPI clearance numbers in solicitations and award documents.

Subpart 508.7 - Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

508.700 Scope of subpart.

This subpart prescribes supplemental policies and procedures to support acquisition from AbilityOne Nonprofit Agencies (NPAs) (see FAR subpart 8.7).

508.702 General.

The AbilityOne Program is administered by the U.S. AbilityOne Commission (Commission), the operating name of the Commission is the Committee For Purchase From People Who Are Blind Or Severely Disabled. The Commission has designated the National Industries for the Blind and SourceAmerica as Central Nonprofit Agencies (CNAs). CNAs work closely with Federal contracting activities and AbilityOne NPAs to match Government requirements with AbilityOne NPA capabilities. Information about the AbilityOne Program is available on the GSA AbilityOne Program page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

508.703 Procurement List.

(a) *Requests*. Requests to add a requirement to the Procurement List shall be submitted to the AbilityOne CNAs at opportunity@abilityone.org. Contracting officers may request assistance from the GSA ABOR team at GSAABOR@gsa.gov. The request shall include the following information:

(1) Start date/delivery date.
(2) Place of performance/delivery address.
(3) Estimated annual dollar value of the acquisition.
(4) Contracting office agency ID code.
(5) A copy of the requirements document (e.g., Performance Work Statement).
(6) If there is an incumbent contractor, the following information shall also be included:
  (i) Contract number.
  (ii) Name of the contractor.
  (iii) Contractor's unique entity identifier.
  (iv) Contract period of performance.
  (v) If applicable, indication that a collective bargaining agreement applies.

(b) *Preliminary impact assessment*. The CNAs will perform a preliminary impact assessment to determine if the requirement can be added to the Procurement List. The CNAs will notify the contracting officer of the results of their preliminary impact assessment. The contracting officer shall inform the ABOR of the results provided by the CNAs.

508.770 AbilityOne Representative (ABOR) responsibilities.

The Office of Federal Procurement Policy memorandum, Increasing the Participation of Americans with Disabilities in Federal Contracting, requires each Chief Financial Officers Act agency to designate an agency-level ABOR. Each Service (i.e., FAS and PBS) shall designate a Service-level ABOR.

(a) *Agency-level ABOR responsibilities*. Responsibilities of the Agency-level ABOR include, but not limited to—

(1) Developing and maintaining an agency action plan for increasing the use of the AbilityOne Program and meeting with the SPE on a regular basis to discuss progress made against the action plan;

(2) Conducting in-reach and training activities with the GSA acquisition workforce to bring greater attention to the AbilityOne Program;

(3) Identifying contract performance mitigation measures;

(4) Collaborating with the AbilityOne Commission, GSA Acquisition Innovation Advocates, GSA Industry Liaisons, and other stakeholders regarding acquisition strategies that promote increased participation of people with disabilities in the workforce through use of AbilityOne nonprofit agencies or other private sector contractors;

(5) Consulting with the Office of Small Disadvantaged Business Utilization to coordinate actions that may simultaneously promote the achievement of small business goals and increase purchases from AbilityOne nonprofit agencies (e.g., use of distributors of AbilityOne products and subcontracting possibilities); and

(6) In coordination with the SPE, establishing a pledge to award a percentage of the agency's total contract spend on AbilityOne products and services each year. Monitoring progress towards the pledge and working with management and the workforce to adjust practices as necessary and appropriate to ensure the pledge is met.

(b) *Service-level ABORs responsibilities*. Responsibilities of Service-level ABORs include, but not limited to—

(1) Supporting the Agency-level ABOR, as necessary, to increase the use of the AbilityOne Program across GSA (e.g., developing training and program utilization strategies; promoting program participation within their respective Service(s); and identifying potential opportunities that may be suitable for addition to the Procurement List);

(2) As applicable, participating in acquisition reviews (see subpart 504.71); and

(3) Assisting the acquisition workforce on the use of the AbilityOne Program (e.g., acquisition planning (see), market research, subcontracting considerations, and inclusion of FAR clause 52.208-9).

Subpart 508.8 - Acquisition of Printing and Related Supplies

508.802 Policy.

The Director of the Reproduction and Visual Arts Division in the Office of Communications (X) is both GSA's:

(a) Central printing authority.

(b) Liaison with the Joint Committee on Printing and the Public Printer on all matters related to printing.

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PART 509 - CONTRACTOR QUALIFICATIONS

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PART 509 - CONTRACTOR QUALIFICATIONS

Subpart 509.1 - Responsible Prospective Contractors

509.105 Procedures.

509.105-1 Obtaining information.

FAR 9.105-1 lists a number of sources of information that a contracting officer may utilize before making a determination of responsibility. The contracting officer may request information directly from a prospective contractor using GSA Form 527, Contractor's Qualifications and Financial Information, but only after exhausting other available sources of information.

509.105-2 Determinations and documentation.

(a) The contracting officer shall provide written notification to a prospective contractor determined not responsible. Include the basis for the determination. Notification provides the prospective contractor with the opportunity to correct any problem for future solicitations.

(b) Due to the potential for de facto debarment, the contracting officer shall avoid making repeated determinations of nonresponsibility based on the same past performance information.

(c) To provide for timely consideration of the need to institute action to debar a contractor, the contracting officer shall submit a copy of each nonresponsibility determination, other than those based on capacity or financial capability, to the Suspension and Debarment Official in the Office of Acquisition Policy.

Subpart 509.3 - First Article Testing and Approval

509.302 General.

(a) If first article testing and approval is required, GSA usually requires that the contractor perform testing and that the first article:

(1) Be produced at the same facility where production quantities will be produced; and

(2) Serve as the manufacturing standard.

(b) Coordinate the need for first article testing and approval with the Contract Operations Management Division (FXCC), which will provide the information to complete the clauses at FAR 52.209-3 or 52.209-4.

509.306 Solicitation requirements.

The clauses at FAR 52.209-3 and 52.209-4 do not cover all the solicitation requirements described in FAR 9.306. If a solicitation contains a testing and approval requirement, the contracting officer must address the requirements in FAR 9.306(d) and (f) through (j) in the solicitation’s Section H, special contract requirements.

Subpart 509.4 - Debarment, Suspension, and Ineligibility

509.401 Applicability.

This subpart applies to all the following:

(a) Acquisitions of personal property, nonpersonal services, construction, and space in buildings.

(b) Acquisition of transportation services (Federal Management Regulation (FMR) Parts 102-117 and 102-118 (41 CFR parts 102-117 and 102-118)).

(c) Contracts for disposal of personal property (FMR Parts 102-36 through 102-38 (41 CFR parts 102-36 through 102-38)).

(d) Covered transactions as defined by 41 CFR 105-68.

509.403 Definitions.

“Fact-finding official,” means the Suspension and Debarment Official or a designee.

"Notice" means a letter sent by certified mail, return receipt requested, to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt will then be presumed.

509.405 Effect of listing.

509.405-1 Continuation of current contracts.

(a) When a contractor appears as a current exclusion in the System for Award Management (SAM), consider terminating a contract under any of the following circumstances:

(1) Any circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of the contract.

(2) The contractor presents a significant risk to the Government in completing the contract.

(3) The conduct that provides the cause of the suspension, proposed debarment, or debarment involved a GSA contract.

(b) Before terminating a contract when a contractor appears as a current exclusion in the SAM, consider the following factors:

(1) Seriousness of the cause for debarment or suspension.

(2) Extent of contract performance.

(3) Potential costs of termination and reprocurement.

(4) Need for or urgency of the requirement, contract coverage, and the impact of delay for reprocurement.

(5) Availability of other safeguards to protect the Government's interest until completion of the contract.

(6) Availability of alternate competitive sources to meet the requirement (*e.g.*, other multiple award contracts, readily available commercial products and commercial services).

(c) The responsibilities of the agency head under FAR 9.405-1 are delegated to the Senior Procurement Executive.

509.405-2 Restrictions on subcontracting.

The responsibilities of the agency head under FAR 9.405-2(a) are delegated to the Senior Procurement Executive.

509.406 Debarment.

509.406-1 General.

The Suspension and Debarment Official is the designee under FAR 9.406-1(c).

509.406-3 Procedures.

(a) *Investigation and referral*. (1) Refer to the Suspension and Debarment Official matters involving serious contract improprieties or performance deficiencies. Performance deficiencies that continue over a period of time or apply to more than one contract may warrant debarment consideration.

(2) Refer possible criminal or fraudulent activities to the Office of the Inspector General (OIG). See 5 CFR 6701.107, Reporting Waste, Fraud, Abuse, and Corruption. If, after investigation, the OIG believes a cause for debarment exists, it will refer the matter to the Suspension and Debarment Official for consideration of debarment action.

(b) *Reports*. Include in referrals to the Suspension and Debarment Official a report that contains at least the following:

(1) The recommendation and supporting rationale.

(2) A list of parties to be considered for possible debarment, including the contractor, principals, and affiliates. Include last known home and business addresses, zip codes, and unique entity identifiers.

(3) A statement of facts.

(4) Copies of documentary evidence and a list of witnesses. Include addresses and telephone numbers. Determine their availability to appear at a fact-finding proceeding and identify the subject matter of their testimony.

(5) GSA's acquisition history with the contractor. Include recent experience, copies of the pertinent contracts, and an explanation of impact debarment would have on GSA programs. OIG referrals do not require this explanation; the Suspension and Debarment Official will obtain the information directly from the contracting activity(s).

(6) A list of any known active or potential criminal investigations, criminal or civil proceedings, or administrative claims before the Board of Contract Appeals.

(c) *Review*. The Suspension and Debarment Official will review the report, and after coordinating with assigned legal counsel—

(1) Initiate debarment action;

(2) Decline debarment action.;

(3) Request additional information; or

(4) Refer the matter to the OIG for further investigation and development of a case file.

(d) *Decision making process*. (1) The Suspension and Debarment Official will provide:

(i) Notice of declinations, proposed debarments, and decisions to the referring activity.

(ii) Notice of proposed debarment to each party being considered for debarment.

(iii) Decision notices to each party after considering information in the administrative record and information and argument submitted by the affected party or parties.

(2) A party proposed for debarment:

(i) Has 30 calendar days after receipt of the notice to respond to the Suspension and Debarment Official or the debarment becomes final.

(ii) May request and receive a copy of the administrative record that was the basis for the proposed debarment. If information is withheld, the party will be notified and provided the reason.

(iii) May request the opportunity to present information and argument in person to the Suspension and Debarment Official. The Suspension and Debarment Official will schedule an oral presentation within 20calendar days of receipt of the request, unless a longer period of time is requested by the party. An oral presentation is informal and a transcript usually is not made. The party may supplement the oral presentation with written information and arguments.

(iv) May identify to the Suspension and Debarment Official material facts in dispute and the bases. For an action other than one based on a conviction or civil judgment, a party may request review and a written finding by a fact-finding official.

(3) Following a review of the record and, if needed, a presentation by the contractor in opposition to the proposed action, the Suspension and Debarment Official will determine whether there is a genuine dispute of material fact. If so, the Suspension and Debarment Official will initiate the fact-finding process. The fact-finding official will:

(i) Establish a date for a fact-finding proceeding, normally to be held within 45 days of the determination of who will function as the fact-finding official.

(ii) Grant extensions for good cause.

(iii) Provide notice of the scheduled hearing.

(iv) Provide the parties with a schedule for exchange of documents and witness lists.

(v) Develop an official transcript of the fact-finding proceeding.

(vi) Provide the Government's representative and the contractor with an opportunity to present evidence relevant to the facts at issue. The contractor may appear in person or through a representative.

(vii) Conduct hearings under rules consistent with FAR 9.406-3 pertaining to fact finding. Neither the Federal Rules of Evidence nor the Federal Rules of Civil Procedure govern fact finding. Hearsay evidence may be presented and will be given appropriate weight by the fact-finding official.

(viii) Provide for witness testimony. Witnesses may testify in person. Witnesses are subject to cross examination.

(ix) Prepare written findings of fact based on a preponderance of the evidence and submit them to both the Suspension and Debarment Official and the contractor within 20 calendar days following the conclusion of the fact-finding proceeding.

509.407 Suspension.

509.407-1 General.

The Suspension and Debarment Official is the designee under FAR 9.407-1(d).

509.407-3 Procedures.

(a) *General*. The procedures in 509.406-3 apply to suspension actions except as noted in paragraph (b) of this section.

(b) *Fact-finding*. (1) Fact-finding will not be conducted in an action:

(i) Based on an indictment.

(ii) When the Suspension and Debarment Official finds no genuine dispute of material facts.

(2) If the action is not based on an indictment, the Suspension and Debarment Official must coordinate with the Department of Justice or state prosecutorial authority through OIG. Based on the advice received, the Suspension and Debarment Official will determine if fact-finding would impair substantial interests of the Federal or state Government. In an action not based on an indictment, a suspended party may:

(i) Identify to the Suspension and Debarment Official material facts in dispute and the bases.

(ii) Request review and a written finding by a fact-finding official to resolve genuine disputes of material fact. For procedures involving a genuine dispute of material fact, see 509.406-3(d)(3).

Subpart 509.5 - Organizational and Consultant Conflicts of Interest

509.503 Waiver.

The Senior Procurement Executive is the designee under FAR 9.503.

PART 510 - MARKET RESEARCH

Sec.

510.001 Policy.

510.002 Pre-Award Procedures.

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510.001 Policy.

Consistent with the requirements of FAR part 10 and part 510, requiring activities and contracting officers shall use the results of market research to—

(a) Determine if existing sources (see FAR part 8 and part 508) can meet the requirement. The use of existing sources shall include consideration of category management requirements (see).

(1) Contracting officers may contact the GSA AbilityOne Representative (ABOR) team at GSAABOR@gsa.gov for assistance with determining whether the acquisition should use the AbilityOne program (see FAR subpart 8.7 and subpart 508.7) or include FAR clause 52.208-9 (see FAR 8.005 and 508.005).

(b) Determine if subcontracting possibilities exist. Subcontracting opportunities may include the use of AbilityOne Nonprofit Agencies (NPAs) (see FAR subpart 8.7 and subpart 508.7). Contracting officers may contact the GSA ABOR team at GSAABOR@gsa.gov for assistance with identifying subcontracting opportunities for NPAs.

(c) Determine the use of any of the small businesses programs in accordance with FAR part 19 or use of any strategies to provide opportunities to small businesses.

510.002 Pre-Award Procedures.

(a) Market research activities related to cyber-supply chain risk management for information technology, GSA-funded acquisitions.

(1) The acquisition planning team must include the GSA Chief Information Security Officer (CISO), or representative, in market research activities and ensure that entities' cyber-supply chain risk management capabilities are considered, as much as possible, before developing requirement documents for an acquisition and before soliciting offers if the acquisition is to acquire a--

(i) *Federal Information Processing Standard (FIPS) 199 High-Impact Information System*. A high-impact information system could be expected to have a severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals if there was a breach of security resulting in a potential loss of confidentiality, integrity, or availability; or

(ii) *FIPS 199 Moderate-Impact Information System*. A moderate-impact information system could be expected to have a serious adverse effect on organizational operations, organizational assets, or individuals if there was a breach of security resulting in a potential loss of confidentiality, integrity, or availability.

(iii) *FIPS 199 Low-Impact Information System*. This paragraph (c)(1) does not apply to acquisitions of low-impact information systems.

(2) The acquisition planning team should:

(i) *Search the System for Award Management (SAM)*. As potential capable sources are identified, and when determining the acquisition strategy, consider searching SAM (https://www.sam.gov) to review self-certifications, submitted in response to the provision at FAR 52.204-26 (or FAR 52.212-3(v) for commercial items or commercial services), as to whether the source provides covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument and whether the source uses covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(ii) *Review the Cyber-Supply Chain Risk Management Page*. The C-SCRM page on the GSA Acquisition Portal (http://insite.gsa.gov/cscrm) is frequently updated to include guides, samples and templates, and other considerations to assist acquisition teams during market research related to C-SCRM. The page also includes helpful points of contacts within the agency that may be able to provide additional information.

(iii) *Review GEAR*. As the acquisition team is determining the availability of certain commercial products or commercial services, the GSA Enterprise Architecture Analytics and Reporting (GEAR) application (https://ea.gsa.gov/), which comprises the authoritative list of approved and denied Commercial-off-the-shelf (COTS) software within GSA, should be reviewed.

(iv) *Review the FedRAMP Marketplace*. If the acquisition may include cloud services, the acquisition team should review the Federal Risk and Authorization Management Program (FedRAMP) Marketplace (https://marketplace.fedramp.gov/) for potential cloud services solutions.

(v) *Review Governmentwide Vehicles and Shared Services*. Consider Government-wide Acquisition Contracts (GWACs), Multi-Agency Contracts (MACs), or GSA Schedules that have already evaluated their awardees for Supply

Chain Risk Management process and procedures at the master contract level and have incorporated relevant provisions and clauses. Additionally, shared services, such as Quality Service Management Offices (QSMOs), provide an online platform for acquiring high-quality, cost-efficient services that may help reduce the time and cost involved in sourcing and maintaining cybersecurity solutions.

(vi) *Other Sources*. If a compliant supplier cannot be identified, the acquisition planning team should look for other ways to satisfy the requirement, including identifying other acquisition strategies, changing the requirement description, changing the requirement, insourcing, or determining another solution.

(b) *Market research activities related to cyber-supply chain risk management for non-information technology, GSA-funded acquisitions. The acquisition planning team should*:

(1) *Search the System for Award Management (SAM)*. As potential capable sources are identified, and when determining the acquisition strategy, consider searching SAM (https://www.sam.gov) to review self-certifications, submitted in response to the provision at FAR 52.204-26 (or FAR 52.212-3(v) for commercial items or commercial services), as to whether the source provides covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument and whether the source uses covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(2) *Review the Cyber-Supply Chain Risk Management Page*. The C-SCRM page on the GSA Acquisition Portal (http://insite.gsa.gov/cscrm) is frequently updated to include guides, samples and templates, and other considerations to assist acquisition teams during market research related to C-SCRM. The page also includes helpful points of contacts within the agency that may be able to provide additional information.

(3) *Review Government-wide Vehicles and Shared Services*. Consider Government-wide Acquisition Contracts (GWACs), Multi-agency Contracts (MACs), or GSA Schedules that have already evaluated their awardees for Supply Chain Risk Management process and procedures at the Master Contract Level and have incorporated relevant provisions and clauses. Additionally, shared services, such as Quality Service Management Offices (QSMOs), provide an online platform for acquiring high-quality, cost-efficient services that may help reduce the time and cost involved in sourcing and maintaining cybersecurity solutions.

(4) *Other Sources*. If a compliant supplier cannot be identified, the acquisition planning team should look for other ways to satisfy the requirement, including identifying other acquisition strategies, changing the requirement description, changing the requirement, or determining another solution.

PART 511 - DESCRIBING AGENCY NEEDS

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511.002 Policy.

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PART 511 - DESCRIBING AGENCY NEEDS

511.002 Policy.

(b) FAR 11.002(b) and GSA Order ADM 8000.1, GSA Metric Program, establish policy for using the metric system in procurements. The GSA Construction Metrication Ombudsman, located in the PBS Office of Acquisition Management, can be found at http://www.gsa.gov/ombudsman.

Subpart 511.1 - Selecting and Developing Requirements Documents

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 the contracting officer uses 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) The contracting officer may require samples for "or equal" offers, but not for "brand name" offers.

(d) The contracting officer shall provide for full consideration and evaluation of "or equal" offers against the salient characteristics specified in the purchase description and shall not reject offers for minor differences in design, construction, or features that do not affect the suitability of the product for its intended use.

511.170 Information Technology Coordination and Standards.

(a) Information Systems Requirements. See 511.171 for guidance for any procurements that may involve GSA Information Systems.

(b) Standard Configurations. The contracting officer shall use standard configurations for GSA information technology procurements when feasible. A list of standard configurations for applicable information technology procurements can be found on the Acquisition Gateway Information Technology Hallway (login required) at https://hallways.cap.gsa.gov/app/#/gateway/information-technology.

(c) CIO Coordination. Requirements for GSA information technology must be coordinated with the GSA Chief Information Officer (CIO) in accordance with the Federal Information and Technology Acquisition Reform Act (FITARA) (Pub L. No. 113-291). Guidance for identifying the applicable GSA CIO point of contact can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal. For interagency acquisitions involving information technology, see subpart 517.5.

(d) GSA IT Standards Profile. GSA information technology must also be approved for use pursuant to the GSA Order CIO 2160.1 GSA Information Technology (IT) Standards Profile. More details about the formal GSA IT Standards Profile approval process can be found on the GSA IT Standards webpage at the following link: https://insite.gsa.gov/portal/content/500499.

(e) Internet Protocol Version 6 (IPv6).

(1) *Developing Requirements*.

(i) In accordance with FAR 11.002(g), contracting officers must include IPv6 requirements in all contracts and orders for information technology (IT) that will have the capability to access the Internet or any network utilizing Internet Protocol (IPv4 or IPv6).

(ii) Sample statement of work language to require IPv6 compliance can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(iii) See for guidance on verifying contractor compliance with IPv6 requirements.

(2) *Waivers*

(i) The GSA Chief Information Officer (CIO) must approve any waiver from IPv6 requirements.

(ii) The waiver request must provide the following information–

(A) The product or service description;

(B) The purpose of the procurement;

(C) The requested duration of waiver; and

(D) Sufficient justification for why IPv6 should be waived.

(iii) A sample waiver request can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(iv) Waivers must be documented in the contract file.

(f) Software Code Development. An alternatives analysis must be completed to leverage existing Federal or commercial software prior to buying custom-developed software code. To comply with this process, software requirements must be developed using the following order of preference—

(1) Software that the Government already owns. For software that will be used by GSA, this requires review of the GSA IT Standards List within the GSA Enterprise Architecture Analytics & Reporting Database that can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal. The GSA IT Standards List shows software that has been approved for use within GSA by the Chief Technology Officer.

(2) Existing commercially-available software.

(3) Custom-developed software code in conjunction with existing Government or commercial software. See 511.170 for requirements with procuring custom-developed code.

(4) Custom-developed software code only. See 511.170 for requirements with procuring custom-developed code.

(g) Custom-Developed Software Code.

(1) Developing Requirements. Requirements for custom development of software code must include the establishment of enforceable rights sufficient to enable GSA to directly publish and publicly host all custom-developed code in accordance with GSA CIO IL-16-03, GSA Open Source Software Policy. To acquire open source software, the contracting officer must include the following–

(i) Any applicable FAR data rights clause; and

(ii) Sufficient data rights language in the statement of work. GSA Standard Open Source Code Statement of Work language can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(2) *Waivers*.

(i) The GSA Chief Information Officer (CIO) must approve any waiver from the open source code requirements mandated in 511.170. If a waiver is approved, GSA must still acquire and enforce rights sufficient to enable GSA or Government-wide reuse of custom-developed code. FAR clause 52.227-17 - Rights in Data - Special Works may be used to acquire Government-wide reuse of custom-developed code.

(ii) The waiver request must provide the following information–

(A) The product or service description;

(B) The purpose of the procurement; and

(C) Sufficient justification for why open source code requirements should be waived.

(iii) A sample waiver form can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(iv) Waivers must be documented in the contract file.

(h) *Unmanned Aircraft Systems (UAS) Services.* The contracting officer must coordinate pre-award solicitations with IS-Contracts-Review@gsa.gov for GSA IT review and approval of the applicable sections, requirements, and best practices for any procurement with ancillary UAS services (commonly referred to as “drones”). See subpart 537.70 for additional guidance related to UAS services.

511.171 Requirements for GSA Information Systems.

(a) CIO Coordination. The contracting officer shall ensure the requirements office has coordinated and identified possible CIO policy inclusions with the GSA IT prior to publication of a Statement of Work, or equivalent as well as the Security Considerations section of the acquisition plan to determine if the CIO policies apply. The CIO policies and GSA IT points of contact are available on the Acquisition Portal at https://insite.gsa.gov/itprocurement.

(b) GSA Requirements. For GSA procurements (contracts, actions, or orders) that may involve GSA Information Systems, excluding GSA’s government-wide contracts e.g. Federal Supply Schedules and Governmentwide Acquisition Contracts, the contracting officer shall incorporate the coordinated Statement of Work or equivalent including the applicable sections of the following policies into solicitations and contracts:

(1) CIO 09-48, IT Security Procedural Guide: Security and Privacy IT Acquisition Requirements; and

(2) CIO 12-2018, IT Policy Requirements Guide.

(c) Waivers.

(1) In cases where it is not effective in terms of cost or time or where it is unreasonably burdensome to include CIO 09-48, IT Security Procedural Guide: Security and Privacy IT Acquisition Requirements or CIO 12-2018, IT Policy Requirements Guide in a contract or order, a waiver may be granted by the Acquisition Approving Official in accordance with the thresholds listed at (b), the Information System Authorizing Official, and the GSA IT Approving Official.

(2) The waiver request must provide the following information-

(A) The description of the procurement and GSA Information Systems;

(B) Identification of requirement requested for waiver;

(C) Sufficient justification for why the requirements should be waived; and

(D) Any residual risks that will be encountered by waiving the requirements.

(3) Waivers must be documented in the contract file.

(d) Classified Information. For any procurements that may involve access to classified information or a classified information system, see subpart 504.4 for additional requirements.

Subpart 511.2 - Using and Maintaining Requirements Documents

511.204 Contract clauses.

(a) *Specifications and drawings*. Insert the clause at 552.211-72, Reference to Specifications in Drawings, in solicitations and contracts that contain military or other drawings.

(b) *Clauses for supply contracts that exceed the simplified acquisition threshold*. When the contract amount is expected to exceed the simplified acquisition threshold, insert—

(1) The clause at 552.211-73, Marking, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(2) The clause at 552.211-75, Preservation, Packaging, and Packing, in solicitations and contracts for supplies. The contracting officer may also include the clause in contracts estimated to be at or below the simplified acquisition threshold when appropriate. Use the clause with its Alternate I in solicitations and contracts for all Federal Supply Schedule contracts.

(3) A clause substantially the same as the clause at 552.211-76, Charges for Packaging, Packing, and Marking, in solicitations and contracts for supplies to be delivered to GSA distribution centers.

(4) The clause at 552.211-85, Consistent Pack and Package Requirements, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(5) The clause at 552.211-86, Maximum Weight Per Shipping Container, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(6) The clause at 552.211-87, Export Packing, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(7) The clause at 552.211-88, Vehicle Export Preparation, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(8) The clause at 552.211-89, Non-Manufactured Wood Packaging Material for Export, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities overseas.

(9) The clause at 552.211-90, Small Parts, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(10) The clause at 552.211-91, Vehicle Decals, Stickers, and Data Plates, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities.

(11) The clause at 552.211-92, Radio Frequency Identification (RFID) using Passive Tags, in solicitations and contracts for supplies when deliveries may be made to military activities.

(c) Supply contracts. Insert the clause at 552.211-77, Packing List, in solicitations and contracts for supplies, including purchases over the micro-purchase threshold. Use the clause with its Alternate I in solicitations and contracts for all Federal Supply Schedule contracts.

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 "required" time of delivery or shipment, expressed in specific periods from receipt by the contractor of a notice of award or an order.

(b) *Multiple award schedules*. (1) In multiple award schedule solicitations, preferred practice is to state delivery times as "desired." Require offerors to indicate a definite number of days for delivery.

(2) In negotiations, the contracting officer should secure the best possible delivery time regardless of the "desired" delivery time(s) in the solicitation. For example, some offers comply with the Government's desired delivery time, but others cite substantially shorter delivery times. In such cases, the contracting officer should negotiate with the former offerors to bring their offers in line with the latter. Contracting officers should negotiate variable delivery time offers (e.g., 30-90 days) to keep the timespan to a minimum. If the span applies to several items or several quantity breaks for one item, the contracting officer may segregate the items or item quantity breaks into smaller groups and assign more specific delivery times.

(c) *Unusually short delivery times*. A requisitioning office that requests an unusually short delivery time must provide satisfactory written justification. A sound justification is particularly important where the time specified is so short that it may limit competition and possibly result in higher prices. Examples of justifications include:

(1) Furniture is required to outfit quarters scheduled for occupancy on a specific date.

(2) Construction material is required to meet job progress schedules.

(3) Supplies are required at a port to meet scheduled ship departures.

(d) *Early delivery*. When the requisitioning office needs a portion of the total delivery early, the contracting officer should consider whether to—

(1) Require that portion by the early date and the balance later;

(2) Include the portion required early and the balance as separate items in the same solicitation; or

(3) Procure the two portions separately.

(e) *Multiple delivery time requirements*. If a solicitation contains a mix of items that require different delivery times, the contracting officer must specify the delivery periods separately. When practical, the contracting officer can group items with similar delivery time requirements according to delivery times in the solicitation.

511.404 Contract clauses.

(a) *Supplies or services*. (1) *Shelf-life items*. Insert the following clauses in solicitations and contracts that require delivery of shelf-life items within a specified timeframe from the date of manufacture or production:

(i) The clause at 552.211-79, Acceptable Age of Supplies, if the required shelf-life period is 12 months or less, and lengthy acceptance testing may be involved. For items having a limited shelf-life and when required by the program director, use the clause with its Alternate I.

(ii) The clause at 552.211-80, Age on Delivery, if the required shelf-life period is more than 12 months, or when source inspection can be performed within a short time period.

(2) *Stock replenishment contracts*. Insert the clause at 552.211-81, Time of Shipment, in solicitations and contracts when a stock replenishment contract is contemplated that does not include the clause at 552.211-83 and requires shipment within 45 calendar days after receipt of the order. Use the clause with its Alternate I if shipment is required after 45 days of receipt of the order.

(3) *Indeterminate testing time*. Insert the clause at 552.211-83, Availability for Inspection, Testing, and Shipment/Delivery, in solicitations and contracts that provide for source inspection by Government personnel and that require lengthy testing for which time frames cannot be determined in advance. Use the clause with its Alternate I if the contract is for stock items.

(4) *Stock program time of delivery*. Insert the clause at 552.211-94, Time of Delivery, in solicitations and contracts for supplies for the Stock Program when neither the FAR clause at 52.211-8, or the FAR clause at 52.211-9 is suitable.

(b) *Construction*. Insert the following clauses in solicitations and contracts when a fixed-price construction contract is contemplated:

(1) The clause at 552.211-10, Commencement, Prosecution, and Completion of Work.

(2) The clause at 552.211-70, Substantial Completion.

Subpart 511.5 - Liquidated Damages

511.503 Contract clauses.

(a) Insert the clause at 552.211-12, Liquidated Damages-Construction, in solicitations and contracts for construction, other than cost-plus-fixed-fee, when the contracting officer determines that liquidated damages are appropriate (see FAR 11.501(a)).

(b) Insert the clause at 552.211-13, Time Extensions, in solicitations and contracts for construction that includes the clause at 552.211-12.

Subpart 511.6 - Priorities and Allocations

511.600 Scope of subpart.

Pursuant to the Defense Priorities and Allocations System (DPAS) Delegation 3, the Department of Commerce (DOC) has delegated to GSA the authority to use the DPAS under certain conditions. DPAS Delegation 3 restricts use of DPAS authority to GSA supply system procurement in support of the Department of Defense (DoD), Department of Energy (DoE), and Federal Emergency Management Agency (FEMA) approved programs.

511.601 [Reserved]

511.602 General.

(a) The purpose of the DPAS is to assure the timely availability of industrial resources to meet current national defense, energy, and civil emergency preparedness program requirements and to provide an operating system to support rapid industrial response in a national emergency. The primary statutory authority for the DPAS is Title I of the Defense Production Act of 1950, as amended, with additional authority from the Selective Service Act of 1948 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Executive Orders 12919 and 12742 delegate to the DOC authority to administer the DPAS. Within the DOC, the Office of Strategic Industries and Economic Security (SIES) is assigned responsibility for DPAS implementation, administration, and compliance.

(b) The DPAS is published in the Code of Federal Regulations at 15 CFR 700. This regulation provides an overview, a detailed explanation of operations and procedures, and other implementing guidance, including information on special priorities assistance and compliance.

(c) Orders placed under DPAS are "rated orders." Rated orders must receive preferential treatment only as necessary to meet delivery requirements. Rated orders are identified by a rating symbol of either "DX" or "DO" followed by a program identification symbol. All "DO" rated orders have equal priority with each other and take preference over unrated orders. All "DX" rated orders have equal priority with each other and take preference over "DO" rated orders and unrated orders. A program identification symbol indicates which approved program is supported by the rated order.

(d) The authority delegated to GSA shall not be used to support the procurement of any product or service that—

(1) Are commonly available in commercial markets for general consumption;

(2) Do not require major modification when purchased for approved program use;

(3) Are readily available in sufficient quantity so as to cause no delay in meeting approved program requirements; or

(4) Are to be used primarily for administrative purposes (including Federal Supply Classification (FSC) classes, groups, or items), such as for personnel or financial management. The Commissioner, FAS, shall issue additional guidance, as may be necessary, to ensure effective implementation of its delegated DPAS authority.

511.603 Procedures.

(a) A DPAS rating may be placed against an entire contract at time of award or an individual order issued under an existing, otherwise unrated, contract. FAR 11.604 requires contracting officers to insert the provision at 52.211-14, Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use, in solicitations when the contract or order to be awarded will be a rated order and to insert the clause at 52.211-15, Defense Priority and Allocation Requirements, in contracts that are rated orders.

(b) In addition to the FAR provision and clause referenced in paragraph (a) of this section, the contract or order must include the following (see 15 CFR 700.12):

(1) The appropriate priority rating symbol (i.e., either "DO" or "DX") along with the program identification symbol. When GSA contracting officers place DO rated orders, they must use program identification symbol "K1". When placing a DX-rated order for other agencies, GSA contracting officers must use the requesting agency program identification symbol from the DoD Master Urgency List and may only do so when GSA is acting as the procuring agent for DoD or DoE and has received a "DX" rated contract or order from either department.

(2) A required delivery date. The words "as soon as possible" or "immediately" do not constitute a required delivery date. Use of either a specific date or a specified number of days ARO (after receipt of order) is acceptable.

(3) The written signature on a manually placed order, or the digital signature or name on an electronically placed order of an individual authorized to place rated orders.

(4) A statement that reads substantially as follows: "This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR 700)".

(c) Multiple and Single Award Schedule contracts are not rated at time of award.

PART 512 - ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

Sec.

Subpart 512.2 - Special Requirements for the Acquisition of Commercial Products and Commercial Services

512.201 General.

512.203 Procedures for solicitation, evaluation, and award.

512.204 Solicitation/contract form.

512.212 Computer software.

512.216 Unenforceability of unauthorized obligations (FAR DEVIATION).

Subpart 512.3 - Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services

512.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services (FAR DEVIATION).

512.302 Tailoring of provisions and clauses for the acquisition of commercial products and commercial services.

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PART 512 - ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

Subpart 512.2 - Special Requirements for the Acquisition of Commercial Products and Commercial Services

512.201 General.

See subpart 504.70 for guidance on identifying and mitigating supply chain risks.

512.203 Procedures for solicitation, evaluation, and award.

(a) *Federal Supply Schedule contracts*. For Federal Supply Schedule contracts, the contracting officer shall use the policies in FAR 12 and this part 512 in conjunction with the policies and procedures in FAR 38 and part 538. See , Use of Bid Samples, if applicable.

(b) *Deregulated/Competitive Acquisitions for Natural Gas and Electricity*. For deregulated/competitive acquisitions, the contracting officer shall use policies and procedures in FAR 12 and this part 512 in conjunction with the policies and procedures in FAR 41.202 (a) and (b), the review requirements of FAR 41, and GSAM part 541, as applicable.

(c) *Contracting for Construction*. The provisions and clauses in FAR 36 and GSAM part 536 address the fundamental aspects of construction contracting. FAR 36 and GSAM part 536 apply well-established commercial principles that are designed to result in an equitable distribution of risk between the Government and its contractors. The contracting officer should consider the following when contemplating a construction acquisition as a commercial purchase—

(1) FAR 12, as currently promulgated, should rarely be used for new construction acquisitions or non-routine alteration and repair services.

(2) FAR 12 and GSAM part 512 may be used in limited circumstances involving construction contracting, primarily for routine alteration and repair services as well as for the acquisition of commercial construction materials and associated ancillary services. It may be appropriate to use FAR 12 and GSAM part 512 for routine projects such as painting or carpeting, simple hanging of drywall, everyday electrical or plumbing work, and similar noncomplex services, as well as for purchases of commercial construction material and associated ancillary services.

(3) Whether a construction acquisition is conducted under FAR 36 or FAR 12, the contracting officer must adhere to the policies of FAR Subpart 22.4. This subpart addresses labor standards for contracts involving construction. Prior to making the determination that a construction acquisition can be conducted as a commercial purchase, the contracting officer should conduct appropriate market research in accordance with FAR 10 and GSAM part 510.

(4) Construction contracts in excess of $2,000 must include an applicable Construction Wage Rate Requirements statute wage determination found under the System for Award Management Wage Determinations at https://www.sam.gov. If the construction contract is greater than $30,000, then the SF 1442 should be used in lieu of the SF 1449 and the bonds or alternate payment protection provisions of FAR 28.102-1, 28.102-2 and 28.102-3 apply.

(5) Construction contracts awarded as commercial acquisitions should not exceed the prospectus threshold. The prospectus threshold as referenced in section 102-73.35 of the Federal Management Regulation (FMR) is posted at https://www.gsa.gov/annualprospectusthreshold.

(d) *Acquisitions with Commercial Supplier Agreements*. For acquisitions with commercial supplier agreements, the deviated commercial products and commercial services clause 552.212-4 as prescribed in 512.301 addresses common commercial terms that conflict with Federal law and makes the terms unenforceable against the Government. The contracting officer is responsible for:

(1) Identifying objectionable terms not covered by the deviated clause;

(2) Negotiating terms as necessary to meet the Government's needs; and

(3) Documenting the full commercial supplier agreement, including referenced terms, as addenda to the contract (see 504.803(b)(23)).

512.204 Solicitation/contract form.

COs shall follow the INFORM procedures in section 515.370 for all applicable GSA acquisitions.

512.212 Computer software.

Common commercial supplier agreement terms that conflict with Federal law have been addressed in paragraphs (u) and (w) of the clause at 552.212-4.

512.216 Unenforceability of unauthorized obligations (FAR DEVIATION).

GSA has a deviation to FAR 12.216 for this section. For commercial contracts, supplier license agreements are referred to as commercial supplier agreements (defined in 502.101). Paragraph (u) of clause 552.212-4 prevents violations of the Anti-Deficiency Act (31 U.S.C. 1341) for supplies or services acquired subject to a commercial supplier agreement.

Subpart 512.3 - Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services

512.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services (FAR DEVIATION).

(a) *Contract clauses*. Insert the following clauses in solicitations and contracts for the acquisition of commercial products and commercial services:

(1) The clause at 552.212-71, Contract Terms and Conditions Applicable to GSA Acquisitions of Commercial Products and commercial services. This clause incorporates by reference only those clauses required to implement GSA requirements applicable to the acquisition of commercial products and commercial services. This clause may be tailored in accordance with FAR 12.302 and GSAM 512.302.

(2) The clause at 552.212-72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisitions of Commercial Products and commercial services, when any listed clauses therein apply. This clause incorporates by reference only those clauses required to implement provisions of law or Executive orders that apply to commercial products and commercial services acquisitions.

(b) *FAR deviation*. GSA has a deviation from FAR 52.212-4 that allows use of the clause at 552.212-4 in lieu of the FAR clause at 52.212-4. Insert the clause at 552.212-4, Contract Terms and Conditions-Commercial Products and commercial services, in lieu of the FAR clause at 52.212-4. This clause may be tailored in accordance with FAR 12.302 and GSAM 512.302.

(c) *Discretionary use of GSAR provisions and clauses*. Consistent with the limitations contained in FAR 12.302 and 512.302, the contracting officer may include in solicitations and contracts by addendum other GSAR provisions and clauses.

(d) *Use of additional provisions and clauses* . The Senior Procurement Executive shall approve the use of a provision or clause that is either not:

(1) Prescribed in the FAR or GSAR for use in acquisitions for commercial products and commercial services.

(2) Consistent with customary commercial practice.

512.302 Tailoring of provisions and clauses for the acquisition of commercial products and commercial services.

(a) FAR 12.302(c) severely limits tailoring of clauses or otherwise including additional terms or conditions in commercial products and commercial services solicitations or contracts in a manner that is inconsistent with customary commercial practice. Such tailoring requires a waiver approved as follows:

(1) *Individual contract*. The contracting officer's supervisor approves the request.

(2) *Class of contracts*. The contracting director approves the request.

(b) Paragraph (w) of 552.212-4, Contract Terms and Conditions - Commercial Products and Commercial Services (FAR DEVIATION), implements statutory requirements, clarifies the application of statutory requirements to common terms and conditions in commercial supplier agreements, sets forth a list of such terms and conditions that do not meet the Government's needs, and shall not be tailored.

SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

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PART 513 - SIMPLIFIED ACQUISITION PROCEDURES

Sec.

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513.101 General.
513.106 [Reserved]
513.106-1 Soliciting competition.
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Subpart 513.2 - Actions At or Below the Micro-Purchase Threshold
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PART 513 - SIMPLIFIED ACQUISITION PROCEDURES

Subpart 513.1 - Procedures

513.101 General.

See subpart 504.70 for guidance on identifying and mitigating supply chain risks.

513.106 [Reserved]

513.106-1 Soliciting competition.

(a) *Usage.* The term "urgency", as used in FAR 13.106-1, includes situations which, if not corrected immediately, will result in unnecessary expenditure of funds, property damage, personal injury, or interruption of agency functions.

513.106-3 Award and documentation.

File documentation and retention. Contracting officers may use GSA Form 2010, Small Purchase Tabulation Source List/ Abstract, to document written and oral quotations. If a lower-priced offer was not evaluated, the contracting officer should document the basis for its rejection, *e.g.*, offeror is debarred or suspended, offer is not responsive to the requirement, offer is a large business (and the acquisition is set aside).

Subpart 513.2 - Actions At or Below the Micro-Purchase Threshold

513.202 Unenforceability of unauthorized obligations in micro-purchases.

Many supplies or services are acquired subject to commercial supplier agreements, as defined in 502.101. The clause at 552.232-39, Unenforceability of Unauthorized Obligations, automatically applies to any micro-purchase, including those made with the Governmentwide purchase card in lieu of the FAR clause at 52.232-39.

Subpart 513.3 - Simplified Acquisition Methods

513.301 Governmentwide commercial purchase card.

(a) The GSA Order providing the policy on the management and use of the GSA SmartPay® Purchase Card (OAS 4200.1) is available on GSA Insight at https://insite.gsa.gov/topics/acquisition-purchases-and-payments/gsa-purchase-card.

513.302 Purchase orders.

513.302-5 Clauses.

Where the supplies or services are offered under a commercial supplier agreement,as defined in 502.101, see 532.706-3 for applicable clauses.

513.302-70 Purchase order and related forms.

(a) GSA Form 300, Order for Supplies and Services, is a multipurpose form that may be used for purchases of supplies or services, orders under existing contracts or agreements, and orders from required sources of supplies and services. Terms and conditions applicable to the order, which are not included in the underlying contract, shall be incorporated in the order.

(1) Use GSA Form 300, when making purchases payable through PEGASYS.

(2) Use GSA Form 300-A, Order for Supplies or Services–Continuation, if additional space is needed.

(b) Use GSA Form 1458, Motor Vehicle Maintenance, Repair and Service Purchase Order, or GSA Form 300 when making purchases in connection with the maintenance, servicing, or repair of GSA fleet management vehicles.

(c) Use GSA Form 300, or GSA Form 3186, Order for Supplies or Services, or GSA Form 3186-B, Order for Supplies or Services (EDI), when making simplified acquisitions or placing orders against established contracts.

(1) Use GSA Form 3186 for mail orders placed against established contracts.

(2) Document the file for a delivery order, task order, or purchase order transmitted to contractors electronically using Electronic Data Interchange (EDI) procedures by generating a GSA Form 3186-B or GSA Form 300.

(d) Use GSA Form 8002B, Motor Vehicle Delivery Order, to order fleet management vehicles. Do not use this form as a purchase order for simplified acquisitions.

(e) Use GSA Form 8002A, Motor Vehicle Requisition Status, to notify the consignee of the status of motor vehicle requisitions.

(f) The GSA Order providing the policy on the management and use of the GSA SmartPay® Purchase Card (OAS 4200.1) prescribes the forms required for purchase card actions (see 513.301).

513.303 Blanket purchase agreements (BPAs).

513.303-3 Preparation of BPAs.

The GSA Form 300 or SF 1449 may be used to prepare a BPA.

(a) *Description of agreement*. Describe limitations, if any, on the geographic area to be served.

(b) *Delivery tickets*. Instruct the contractor to include the name of the individual placing the order on the delivery ticket. The individual receiving the product or service must sign and date the delivery or service ticket. Both the supplier and the receiving office must retain a copy of the delivery ticket.

(c) *Invoices*. If the contracting officer has exhausted all efforts to get a supplier to accept one of the invoicing statements outlined in FAR 13.303-3(a)(6), the contracting officer may deviate in order to permit the submission and payment of invoices for each delivery under the BPA. The contracting officer shall document their efforts and the contractor's refusal.

(d) *Processing invoices*. The designated billing office must time-stamp invoices to indicate the date of receipt. The ordering office must forward an invoice to the appropriate Finance Division within 5 workdays of its receipt or acceptance of the supplies or services. An exception applies if the BPA provides for the accumulation of invoices for a specified period. If this exception applies, the ordering office must forward the accumulated invoices within 5 workdays after the specified period for accumulation. Mark all invoices to indicate that purchases were made under a BPA.

513.370 Certified invoice procedure.

513.370-1 Applicability.

If advantageous to the Government, the contracting officer may acquire supplies or services on the open market from suppliers using a vendor's invoice instead of a purchase order.

513.370-2 Limitations.

(a) Purchases are subject to FAR part 13, and part 513 and these limitations:

(1) The amount of any one purchase must not exceed the micro-purchase threshold.

(2) Neither the supplier nor the Government require a purchase order.

(3) The individual making the purchase does not have a Governmentwide commercial purchase card or the card is not accepted by the supplier.

(b) If the contracting officer uses certified invoice procedures, the contracting officer must:

(1) Verify price reasonableness using the conditions contained in FAR 13.203.

(2) Certify that the quality and quantity of supplies/services furnished comply with the verbal agreement made with the supplier.

(c) Authorized individuals without warrants may solicit quotations. Although FAR 1.601(a) states that contracts may be entered into and signed on behalf of the Government only by contracting officers, a non-warranted Government employee may place a micro-purchase when a contracting officer approves in advance the placement of an order. Approval must be in writing on GSA Form 2010, Simplified Acquisition Tabulation Source List/Abstract, or other documentation unless the geographic distance makes it impracticable. In those cases, the contracting officer may provide approval by telephone or e-mail. The authorized individual must document the file accordingly.

513.370-3 Invoices.

(a) If the contracting officer uses these procedures, s/he must require the suppliers to immediately submit properly prepared itemized invoices.

(b) Upon receipt of the invoice, the receiving office must take all the following actions:

(1) Time-stamp the invoice to indicate the date the invoice is received.

(2) Verify the accuracy of the invoiced amount.

(3) Verify that the supplies or services have been received and accepted. Whenever possible, require that inspection and acceptance or rejection occur within 7 calendar days of delivery or completion.

(c) Before certifying the invoice and forwarding it to the appropriate office, the contracting officer or a designated representative must obtain a certification of receipt and acceptance from the individual who actually inspected and accepted the supplies or services.

(d) Within 5 workdays after receipt of the invoice or acceptance of the supplies or services, whichever is later, forward the invoice stamped with the Certified Invoice Stamp.

(1) Complete the accounting information, received and accepted dates, taxpayer identification number (TIN), type of business (e.g., corporation, sole proprietorship/partnership, or other), certification, and PEGASYS Document Number (PDN).

(2) If a Certified Invoice Stamp is not available, place the following statement on the invoice along with the PDN number, accounting information, TIN, and type of business. (**Note**: In some organizations, the PDN number is determined by a budget or executive office within the service or staff office.)

"I certify that these goods and/or services were received on [Date] and accepted on [Date]. An oral purchase was authorized and no confirming order has been issued."

Signature of Contracting/Ordering Officer

Print name and telephone no. Date invoice received

Subpart 513.4 - Fast Payment Procedure

513.401 General.

Fast payment procedures prescribed by FAR subpart 13.4 shall only be used for utility service payments.

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PART 514 - SEALED BIDDING

Sec.

Subpart 514.2 - Solicitation of Bids
514.201 Preparation of invitations for bids.
514.201-1 Uniform contract format.
514.201-2 Part I—The Schedule.
514.201-6 Solicitation provisions.
514.201-7 [Reserved]
514.202 General rules for solicitation of bids.
514.202-4 Bid samples.
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514.303 Modification or withdrawal of bids.
514.304 Late bids, late modifications of bids, or late withdrawal of bids.
514.370 Copies of bids required.
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514.401 Receipt and safeguarding of bids.
514.402 Opening of bids.
514.402-1 Unclassified bids.
514.402-70 Preferred practices for conducting bid openings.
514.403 Recording of bids.
514.404 Rejection of bids.
514.404-1 Cancellation of invitations after opening.
514.404-2 Rejection of individual bids.
514.407 Mistakes in bids.
514.407-3 Other mistakes disclosed before award.
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514.408 Award.
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514.408-70 Forms for recommending award(s).

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PART 514 - SEALED BIDDING

Subpart 514.2 - Solicitation of Bids

514.201 Preparation of invitations for bids.

514.201-1 Uniform contract format.

Include the following notice in each solicitation:

"The information collection requirements contained in this solicitation/contract, are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No.3090-0163."

514.201-2 Part I—The Schedule.

(a) When using Standard Form 33, Solicitation, Offer and Award, include the following cautionary notice:

"Notice to Bidders—Use Item 13 of the Standard Form 33, Solicitation, Offer and Award, to offer prompt payment discounts. The Prompt Payment clause of this solicitation sets forth payment terms. Do not insert any statement in Item 13 that requires payment sooner than the time stipulated in the Prompt Payment clause (See FAR 52.232-25, 52.232-26, or 52.232-27, as applicable). EXAMPLE: If you insert "NET 20" in Item 13, GSA will reject your bid as nonresponsive because the entry contradicts the 30 day payment terms specified in the Prompt Payment clause."

(b) When using other authorized forms (e.g., Standard Form 1447, Solicitation/Contract; Standard Form 1449, Solicitation/Contract/Order for Commercial Products and Commercial Services), include the notice in paragraph (a) of this section. Change the reference to the form number, form title, and item number accordingly.

514.201-6 Solicitation provisions.

Insert the provision at 552.214-70, "All or None" Bids, in invitations for bids when reserving the right to evaluate and make an award on an all or none basis.

514.201-7 [Reserved]

514.202 General rules for solicitation of bids.

514.202-4 Bid samples.

(a) *Requirements for samples in invitations for bids* **.** (1) When bid samples are required, the contracting officer shall require bidders to submit samples produced by the manufacturer whose products will be supplied under the contract.

(2) The FAR limits use of bid samples to cases where the contracting officer cannot describe some characteristics of a product adequately in the specification or purchase description. This usually applies to subjective characteristics. The contracting officer may determine that there is a need to examine objective characteristics of bid samples to determine the responsiveness of a bid. The contracting officer should base the determination on past experience or other valid considerations. In the solicitation, separately list "Subjective Characteristics" and "Objective Characteristics."

(3) Insert the provision at 552.214-72, Bid Sample Requirements, in invitations for bids if bid samples are required. This provision may be modified to fit the circumstances of a procurement.

(b) *Handling bid samples*. (1) Samples from accepted bids must be retained for the period of contract performance. If there are no outstanding claims regarding the contract, the contracting officer may authorize disposal of the samples at the end of the contract term following the bidder's instructions.

(2) If the contracting officer anticipates a claim regarding the contract, the contracting officer shall require that the bid samples be retained until the claim is resolved.

(3) The contracting officer shall require that samples from unsuccessful bids be retained until award. After award, these samples may be disposed of following the bidder's instructions.

514.202-5 Descriptive literature.

Requirements for Invitations for bids. When using brand name or equal purchase descriptions, the provision at FAR 52.211-6 satisfies the requirement for descriptive literature.

514.211 Release of acquisition information.

Before award, the contracting officer and all other members of the acquisition team must limit access to information concerning the Government cost estimate to Government personnel whose official duties require knowledge of the estimate and to *non-Government* personnel with a need to know and who have signed a non-disclosure agreement (contracting officers may tailor the non-disclosure agreement at Figure 1 for these purposes). After award, the contracting officer may reveal the total amount of the Government estimate upon request. The contracting officer is not authorized to release the basis for calculating the estimate at any time.

514.270 Aggregate awards.

514.270-1 Definition.

"Aggregate award" means an arrangement whereby two or more separately priced line items are combined for award to that bidder whose bid will result in the lowest overall cost to the Government for the line items as a group. The individual price for each item does not have to be the lowest bid received. (See also the definition of a "line item" in FAR 2.101 .)

514.270-2 Justification for use.

(a) GSA usually solicits prices and reserves the right to make award for individual line items. In some cases it serves GSA's best interest to combine two or more line items for an aggregate award. Such cases include when:

(1) Users desire uniformity of design, style, and finish, (*e.g.*,suites of household furniture).

(2) The articles will be assembled and used as a unit, and different manufacturers' components may not be interchangeable.

(3) Users have high demand for certain articles, but demand for related articles is insufficient to attract competitive bids (*e.g.*.,various sizes of socket wrenches).

(4) Awarding the low-demand articles in conjunction with the high-demand articles may encourage competition.

(5) One location (delivery point) has a large requirement, and another location has a requirement too small to individually attract competitive bids.

(6) Awarding and administering numerous small contracts for similar articles or services is impractical.

(b) Before deciding to combine items for aggregate award, the contracting officer should consider the following factors:

(1) The capability of bidders to furnish the types and quantities of supplies or services in the aggregate.

(2) How grouping delivery points will affect bidders.

(3) Which combinations will accurately project the lowest overall cost to the Government.

(c) The contracting officer should not use an aggregate award if it will significantly restrict the number of eligible bidders.

514.270-3 Evaluation factors for award.

The solicitation should clearly state the basis for evaluating bids for aggregate award, require bidders to submit a price on each item within the group or a percentage to be added or subtracted from a list price, and advise bidders that failure to submit prices as required within a group makes a bid ineligible for award for that group.

514.270-4 Grouping line items for aggregate award.

(a) *Supplies and services*. This subsection applies to acquisitions of supplies and services.

(b) Effect on competition. Provide for full and open competition when grouping items for award. Grouping items for award may preclude a significant number of firms from bidding. This occurs if firms are unable to provide all the types or quantities of supplies or services, or make deliveries to the various delivery points included in the prospective aggregate group.

(c) Grouping different articles. Include only related articles in an aggregate group. Related articles are those normally manufactured or produced by a majority of prospective bidders. Grouping unrelated articles often restricts competition unnecessarily.

(d) Grouping geographic locations or delivery points. Consider the following guidelines before deciding to group different geographic locations or delivery points:

(1) A delivery point may have sufficient requirements so that individual shipments involve economic production runs and carload or truckload quantities. In this case, list it as a separate line item.

(2) The types of bidders (i.e.,small or large firms, manufacturers or distributors, etc.) who responded to previous solicitations can provide important information. For example, if previous bidders are distributors with franchises in certain territories, grouping different territories could tend to restrict competition.

(3) Transportation costs can affect competition and pricing. They may constitute a significant portion of the total delivered cost. Obtain the advice and assistance of transportation specialists before grouping geographic locations or delivery points. Depending upon the supplies being acquired:

(i) Grouping widespread geographic locations or delivery points may reduce competition or result in higher prices. It can cause the loss of "area pricing" advantages provided by a supplier with a single production point.

(ii) Conversely, for many small commercial products(hand tools, locks), manufacturers may quote the same price for delivery anywhere in the U.S.

(iii) Tariff boundaries can also affect how manufacturers price deliveries to different areas.

514.270-5 Evaluation methodologies for aggregate awards.

(a) *Definite quantity contracts without options*. For definite quantity contracts without options, the evaluated bid price is the total bid price, as adjusted for any price-related factors identified in the solicitation. This reflects the actual cost to the Government and will identify the most advantageous bid.

(b) *Indefinite quantity contracts, requirements contracts, and options*. Indefinite quantity and requirements contracts use estimated quantities. Options involve the probability of whether and when the options will be exercised. These situations may result in unbalanced bids (see FAR 15.404-1(g)), leading to inaccurate evaluation of the projected cost and award to other than the most advantageous bid. To avoid unbalanced bids, GSA has two preferred methods for evaluating bids for aggregate awards: weight factors and price list.

(1) *Weight factors method*. Assign a weight to each item in a group. The weight is based on the portion of quantities that item represents. To evaluate bids, multiply each unit price by its weight factor, then total the results.

(2) *Price list method*. Establish prices for bidders to use as a base for preparing their bids. Prepare a list that identifies a base price for each item in a group. Bidders bid a percentage factor to add to or subtract from the base price.

514.270-6 Guidelines for using the weight factors method.

(a) Use the weight factors method when there are reliable estimates for the quantities needed in an acquisition. Reliable estimates of quantities form the foundation for:

(1) Accurate evaluation of the projected cost of each bid.

(2) An appropriate determination of which bid is most advantageous to the Government for the aggregate group.

(b) Assign a weight factor to each item in a group. Develop the weight factor by calculating the portion of the total quantity in a defined group that each item represents.

(c) To evaluate bid prices, first multiply the price bid for each item (unit price X quantity) by its weight factor. Then, add the subtotals together to project the cost for the aggregate group.

(d) Estimated quantities may be reduced to smaller numbers by a common denominator. This may help facilitate the computations involved in evaluating bids.

(e) Consider all price-related factors identified in the solicitation. Award to the responsive and responsible bidder with the lowest evaluated overall cost to the Government for the aggregate group. This represents the most advantageous bid.

514.270-7 Guidelines for using the price list method.

(a) *General*. The price list method helps avoid unbalanced bidding when making aggregate awards, but lack accurate estimates of anticipated quantities. This method establishes base prices for bidders to use in preparing their bids.

(b) *Solicitation requirements*. When using the price list method, in the solicitation:

(1) Include the price list.

(2) Include an estimate of requirements.

(3) Require the bidder to express its price as "net" or as a percentage added to or subtracted from the list prices for each group. Require the bidder to quote only one percentage factor for each group. This means that the bidder provides one percentage factor that applies to every item in a group; not a separate percentage for each item. "Net" indicates the bidder chooses to submit the list prices as its bid.

(4) Identify the percentage factor in (3) above as a price-related evaluation factor.

(c) *Developing list prices*. Price lists may be developed using one or more of the following sources:

(1) Industry published prices.

(2) Industry surveys.

(3) Government cost estimates based on knowledge of the supplies or services and previous contract prices.

(d) *First time use for an product or service*. The first time the contracting officer uses list prices for a product or service, give prospective bidders an opportunity to review the proposed list. Also provide information on how GSA will use the list prices. This information may be provided in a draft solicitation.

(e) *Balanced prices*. Ensure that the list prices for the grouped items bear a reasonable and balanced relationship to one another. Prices may be used from previous awards made using the weight factors method to develop price lists. Review those prices first to ensure they did not result from unbalanced bidding.

(f) *Evaluation and award*. Consider all price-related factors identified in the solicitation. Award to the responsive and responsible bidder whose percentage factor produces the most favorable price to the Government. This represents the most advantageous bid.

(g) *Example*. The following illustrates a bidding schedule arrangement for a group of items for aggregate award under the price list method:

(h) *Special considerations for contracts for store stock items*. Show estimated quantities only if estimates of demand for each item within a group can be derived from Government records or verified contractor sales reports. Use only current estimates. If the Government's needs cannot be estimated, the solicitation may include past orders. (See CG Decision, B-209037, 82-2 CPD para 323 (1982).)

(i) *Special considerations for repair and alteration contracts*. In the solicitation:

(1) List the estimated quantities for work to be performed during both normal working hours and outside of normal working hours.

(2) State the percent of work anticipated to be performed during normal working hours.

(3) List the unit prices for work to be performed during both normal working hours and outside of normal working hours.

(4) Define "normal" in terms of hours and days of the week.

(5) Advise bidders of the previous year's total expenditures or portions of that total attributable to the listed items.

(6) If providing quantity estimates, state that the estimates are for information only and do not constitute guarantees or commitments to order items under the contract.

(7) Solicit two percentage factors for the line item unit prices listed: one for the unit prices for work performed during normal working hours and the second for the unit prices for work performed outside of normal working hours.

(8) When the solicitation further groups unit prices by trade or business category, multiple percentages may be required.

(9) For the evaluated bid price, add together (i) and (ii):

(i) The percentage of work performed during normal work hours multiplied by the total estimate adjusted by the bidder's percentage factor for that portion of the work, plus

(ii) The percentage of work performed during other than normal working hours multiplied by the total estimate adjusted by the bidder's percentage factor for that portion of the work.

(10) Consider other price-related factors identified in the solicitation. Make award to the responsible and responsive bidder submitting the lowest overall evaluated bid price for the aggregate group. This represents the most advantageous bid.

Drills, Twist, High Speed, under Federal Specification (no. and date)_ and Amendment (no. and date), Wiregauge sizes, straight shank, short length, Type C					
Item No.	**National Stock Number**	**Drill Size**	**Est. Quantity**	**Unit**	**List Price**
Group1 (Items 1 through 5)					

Drills, Twist, High Speed, under Federal Specification (no. and date)_ and Amendment (no. and date), Wiregauge sizes, straight shank, short length, Type C					
Item No.	**National Stock Number**	**Drill Size**	**Est. Quantity**	**Unit**	**List Price**
1	5133-00-189-9246	1	2,800	Pkg	$11.16
2	5133-00-189-9247	2	2,400	Pkg	$11.16
3	5133-00-189-9248	3	2,800	Pkg	$10.44
4	5133-00-189-9249	4	1,600	Pkg	$10.80
5	5133-00-189-9250	5	2,000	Pkg	$10.80
The bid on each item above is the list price shown minus/plus percent. (Bidder, insert "net" or a single percentage amount in the blank space and cross out minus or plus, as appropriate.)					

Subpart 514.3 - Submission of Bids

514.302 Bid Submission.

GSA contracting officers shall not consider telegraphic bids communicated by telephone.

514.303 Modification or withdrawal of bids.

(a) A telegraphic modification or withdrawal of a bid by telephone under the circumstances in FAR 14.303(a) shall not be considered.

(b) The receipt required by FAR 14.303(b) for withdrawal of a bid in person should read:

I am a bona fide agent for or representative of _____ (*Bidder's name and address*). I am authorized to withdraw the bid on IFB No. _____scheduled for opening on_____, and acknowledge receipt of the unopened bid.

_____

Name and telephone no.

_____

Date

514.304 Late bids, late modifications of bids, or late withdrawal of bids.

Upon receiving a late bid, the bid custodian records it on the duplicate copy of the list of bidders. The bid custodian then immediately notifies the responsible contracting officer of the bid. The contracting officer must arrange for pick-up or delivery of the bid.

514.370 Copies of bids required.

Require each bidder to submit an original and at least one copy of its bid. This requirement does not apply to bids transmitted and received through an electronic commerce method authorized by the solicitation.

Subpart 514.4 - Opening of Bids and Award of Contract

514.401 Receipt and safeguarding of bids.

(a) The specific location for receipt and safeguarding of bids and modifications shall be identified in the solicitation. Handle bids as follows:

(1) Authorized personnel mark the envelope (or other covering) of each package identified as a bid or modification with a time-stamp or the place, date, and time of receipt. They then deliver the bid by special handling to the bid custodian.

(2) Deposit hand-carried bids into the designated locked bid box, safe, or secured, restricted-access electronic bid box. At least once daily and immediately preceding the time scheduled for bid opening, the bid custodian removes and time

stamps the bids. If a bidder hands a bid to the bid custodian or other GSA employee, the custodian or employee time stamps the bid immediately.

(3) When the solicitation authorizes telegraphic or facsimile bids and modifications, the bid custodian seals each in an envelope immediately upon receipt. The custodian labels the envelope with appropriate identification.

(4) For each invitation, the bid custodian prepares a bidders' list. The list shall includes the name and address of all responses, including any bid modifications, received before bid opening time. The list also indicates withdrawn bids.

(5) The bid custodian records each bid and modification delivered before bid opening on the bidders' list on the day of receipt. The custodian stores bids and modifications in a suitable secured cabinet.

(b) At the scheduled bid opening time, the bid custodian delivers all bids received in response to the invitation, with the original and one copy of the bidders' list, to the bid opening official or designee. The bid opening official or designee acknowledges receipt of the bids by signing the copy of the form and returning it to the bid custodian. The original list becomes part of the contract file.

(c) When a regional Small Business Utilization Center (SBUC) is designated to receive bids, the regional SBUC Director may designate an individual(s) working at a Field Office as a bid custodian, provided all the following conditions are met:

(1) The Field Office has adequate space and facilities.

(2) The individual(s) designated as a bid custodian has been trained.

(3) The Field Office has a Small Business Technical Advisor.

(4) The bid custodian(s) must submit monthly reports to the regional SBUC Director. The regional SBUC Director forwards these reports to the Office of Small Business Utilization (E).

514.402 Opening of bids.

514.402-1 Unclassified bids.

(a) *Location of bid openings*. Public bid openings take place in the regional SBUC if the bid custodian is in the regional SBUC. If the bid opening occurs elsewhere, inform the regional SBUC. Give the regional SBUC the invitation number and the location of the bid opening.

(b) *Bid opening officer*. (1) The contracting officer may appoint a qualified employee of the contracting office as assistant bid opening officer as provided in FAR 14.402-1(b).

(2) The distance between the regional SBUC and the contracting office may make it impracticable for the contracting officer to conduct bid opening. In this case, the contracting officer may request the HCA and the Associate Administrator for Small Business Utilization (E) in Central Office, or the SBUC Director in the Region, to authorize a qualified regional SBUC employee to open, read, and record bids.

(c) Bid openings are open to business representatives, members of the press, and the general public.

514.402-70 Preferred practices for conducting bid openings.

(a) To ensure that bid opening occurs at the exact time specified, verify the accuracy of the timepiece to be used.

(b) For the information of bidders present, provide an audible announcement approximately one minute prior to bid opening.

(c) Announce audibly when the exact time of opening arrives. In the announcement, identify the invitation(s) scheduled for opening.

(d) For construction contracts that provide for bid alternates, announce the amount of funds available for the award before opening bids.

(e) Open the bids in full view of the parties present.

(f) When practicable and feasible, announce the following information from each bid: the bidder's name, item and unit price bid, and other pertinent information, such as delivery and discount terms.

(g) For bids submitted in multiple copies, one copy remains in the bid opening room for public examination until the bid abstract is substituted. The contracting activity uses the original. For bids submitted in original only, see FAR 14.402-1(c). The contracting activity retains all supplemental financial forms or other information submitted with a bid. Do not provide supplemental information for public examination.

(h) Forward any negotiable instruments submitted as bid guarantees to the appropriate Finance Office following procedures established by the Chief Financial Officer. After award, cancellation of the solicitation, or rejection of all bids,

direct the appropriate Finance Office to refund the amount of the bid guarantee to unsuccessful bidders. The contracting officer may authorize return of a bid guarantee before award when requested by a bidder who is not in contention for the award. Retain other forms of bid guarantees (*e.g.*., bid bonds, letters of credit, corporate and individual sureties, etc.) in the contract file.

(i) Prepare a record of the opening for the contract file. Include the names of persons attending the bid opening and the firms or organizations they represent.

(j) Verify the entries on all copies of a bid. Resolve any suspected mistake(s) following the procedures in FAR 14.407.

(k) Retain the envelopes in which bids and bid modifications are received until all awards are made. After award, retain those with notations concerning abnormal receipt or opening for identification in the solicitation file. The contracting officer may destroy the remainder.

514.403 Recording of bids.

(a) As soon as practicable, make a copy of the abstract of bids and any amendments available for public examination at the location of the bid opening. Make the abstract available for public examination for at least 30 calendar days. Include late bids determined eligible for consideration on the bid abstract or, if necessary, in an amendment.

(b) In abstracts for aggregate awards, record: unit prices, weight factors, totals for each aggregate group, and any other information required for bid evaluation.

(c) For building services, contracting activities in PBS may use GSA Form 3471, Abstract of Offers, instead of the Standard Form 1409, Abstract of Offers.

514.404 Rejection of bids.

514.404-1 Cancellation of invitations after opening.

The HCA, or designee, makes any determinations required by FAR 14.404-1.

514.404-2 Rejection of individual bids.

(a) The contracting officer may use the "Remarks" Item on GSA Form 1535, Recommendation for Award(s), or other appropriate documentation to record findings with respect to rejected bids.

(b) Document any bid rejected for nonresponsiveness, nonresponsibility, ineligibility, or because the bid after evaluation is no longer low. Examples of bids which may no longer be low after evaluation include aggregate bids, "all or none" bids, bids evaluated for freight costs, and bids evaluated using Buy American differentials.

(c) For sensitive or controversial bid rejections, include all supporting documentation to justify awards. This includes copies of the bid to be rejected and the proposed awardee, statements from or records of conversations with the requisitioning activity, plant facilities and financial responsibility reports, and other relevant correspondence or reports (Certificates of Competency, copies of Congressional correspondence or other high level interest, etc.).

514.407 Mistakes in bids.

514.407-3 Other mistakes disclosed before award.

Delegation of authority by head of the agency. Under FAR 14.407-3(e), contracting directors (see 502.101) are authorized, without power of redelegation, to make:

(a) The determinations regarding corrections and withdrawals under FAR 14.407-3(a), (b), and (c); and

(b) The corollary determinations not to permit withdrawal or correction under FAR 14.407-3(d).

514.407-4 Mistakes after award.

The contracting director and assigned counsel are required to review and approve the contracting officer's determinations under FAR 14.407-4(b) and (c).

514.408 Award.

514.408-6 Equal low bids.

To determine the status of bidders in a tie-bid situation, use the bidders' status as of the date the bids were signed.

514.408-70 Forms for recommending award(s).

Contracting activities may use GSA Form l535, Recommendation for Award(s), and GSA Form 1535-A, Recommendation for Award(s), Continuation Sheet, to document proposed awards. One or more awards may be set forth on each form. Contracting activities have the discretion to use other means of documentation that meet their needs for information to support an award recommendation.

PART 515 - CONTRACTING BY NEGOTIATION

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PART 515 - CONTRACTING BY NEGOTIATION

Subpart 515.1 - Source Selection Processes and Techniques

515.101-2 Lowest price technically acceptable source selection process.

(a) *General*. Lowest Price Technically Acceptable is a source selection process that may be useful in acquisitions in which the Government, or the market, does not benefit from technical tradeoffs. A contracting officer should not use the lowest price technically acceptable source selection process without doing the following:

(1) *Documentation requirements*. The contracting officer shall include documentation as to why the lowest price technically acceptable source selection is being utilized. The rationale for why this method of source selection is being utilized should be clearly described in the acquisition plan (see FAR 7.105(b)(4)). The rationale should include a description as to why utilizing this methodology will not harm the Government.

(b) *Federal Procurement Data System (FPDS)*. Contracting officers shall ensure that FPDS is properly coded to include if lowest price technically acceptable is the source selection process used.

Subpart 515.2 - Solicitation and Receipt of Proposals and Information

515.201 Exchanges with industry before receipt of proposals.

(a) The contracting officer must communicate and collaborate with industry prior to receipt of proposal to the maximum extent practicable. Vendor engagement is key in providing sound solutions in support of the GSA mission and the missions of the customers served by GSA while promoting opportunities for small business. Communication and collaboration tools can be found in the Vendor Communication Plan at https://www.gsa.gov/forbusiness.

(b) The contracting officer should partner with representatives of the Office of Small and Disadvantaged Business Utilization (OSDBU) to structure opportunities for communicating and collaborating with industry.

515.204 Contract format.

(a) The uniform contract format is not required for leases of real property (See GSAM 570.116).

(b) The Senior Procurement Executive is the agency head's designee for the purposes of granting exemptions to the use of the Uniform Contract Format (see FAR 15.204(e).

515.208 Submission, modification, revision, and withdrawal of proposals.

515.208-70 Restrictions on disclosure or use of data.

If the contracting officer receives a proposal with more restrictive conditions than those in the provision at FAR 52.215-1(e), then the contracting officer should ask whether the offeror is willing to accept the conditions of the paragraph at FAR 52.215-1(e). If the offeror refuses, then the contracting officer must consult with legal counsel before deciding whether to accept the proposal as marked or return it. See also FAR 3.104-4(d) and FAR 27.404-5.]

515.209 Solicitation provisions and contract clauses.

515.209-70 Contract clause.

(a) Insert the clause at 552.215-70, Examination of Records by GSA, in solicitations and contracts exceeding the simplified acquisition threshold that meet any of the following conditions:

(1) Involve the use or disposition of Government-furnished property.

(2) Provide for advance payments, progress payments based on cost, or guaranteed loan.

(3) Contain a price warranty or price reduction clause.

(4) Involve income to the Government where income is based on operations under the control of the contractor.

(5) Include an economic price adjustment clause where the adjustment is not based solely on an established, third party index.

(6) Are requirements, indefinite-quantity, or letter type contracts as defined in FAR Part 16.

(7) Are subject to adjustment based on a negotiated cost escalation base.

(8) Contain the provision at FAR 52.223-4.

(b) The clause in paragraph (a) of this subsection may be modified to define the specific area of audit (*e.g.*, the use or disposition of Government-furnished property). Legal (*i.e.*, the Office of General Counsel or the Office of Regional Counsel, as appropriate), and Inspector General (*i.e.*, the Assistant Inspector General for Auditing or the Regional Inspector General for Auditing, as appropriate) must concur with any modification to the clause.

(c) Insert the clause at 552.215-73, Notice, in all solicitations and contracts for negotiated procurements exceeding the simplified acquisition threshold in accordance with FAR part 15.

Subpart 515.3 - Source Selection

515.303 Responsibilities.

The Head of the Contracting Activity (HCA) is the agency head designee that appoints someone other than the contracting officer as the source selection authority (see FAR 15.303(a)).

515.304 Evaluation factors and significant subfactors.

(a) *Small business consideration*. Solicitations that are not set-aside for small business concerns should consider inclusion of a small business participation evaluation factor (see FAR 15.304(c)(4)) for additional requirements for procurements involving consolidation or bundling). The small business participation evaluation factor is separate from the small business subcontracting plan required at the contract level under FAR 19.7. Differences between the subcontracting plan and the evaluation factor include:

(1) Small business subcontracting plan. Established at the contract level only for offerors that are other than small businesses. Prior compliance by the offeror with subcontracting plans under separate contracts will be considered by the contracting officer in determining the responsibility of the offeror for award of the contract, as required by FAR 19.705-5. Contracting officers are required to review the plan to ensure it meets the requirements of FAR 19.704. No award can be made to an offeror with an unacceptable subcontracting plan per FAR 19.702(a)..

(2) Small business participation evaluation factor. Can be used at the contract level as well as at the order level. Evaluated in accordance with the source selection or evaluation criteria. Sample evaluation factor language and further details can be found on the Small Business Topic Page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(b) *Evaluation of small business participation factor.*

(1) Small business participation evaluation considerations may include:

(i) Extent to which socioeconomic small businesses will participate throughout the life of the contract.

(ii) Extent to which specific small businesses are identified, including the products and services such firms will provide.

(iii) Extent of commitments made by the prime contractor to small businesses. Greater weight should be given to enforceable commitments such as signed Contractor Teaming Arrangements, or written pledges to pay subcontractors within a specific number of days.

(iv) Variety and complexity of the work performed by small businesses.

(2) When using a small business participation evaluation factor, responses from small business offerors should receive full credit.

(3) Contracting officers should review responses from other than small business offerors for consistency with the required subcontracting plan. Examples of evaluating the small business participation factor responses consistent with the required subcontracting plan can be found on the OSDBU subcontracting page athttps://insite.gsa.gov/subcontracting.

515.305 Proposal Evaluation.

(a) *Restrictions placed on a proposal by the submitter.*If you receive a proposal with more restrictive conditions than those in the provision at FAR 52.215-1(e), ask whether the submitter is willing to accept the conditions of the paragraph at FAR 52.215-1(e). If the submitter refuses, consult with legal counsel on whether to accept the proposal as marked or return it.

(b) *Actions before releasing proposal.* Before releasing any proposal to an evaluator you must take all the following actions:

(1) Obtain the signed original "Conflict of Interest Acknowledgment and Nondisclosure Agreement" from each Government and nongovernment individual serving as an evaluator. Use the Acknowledgment/Agreement in Figure 515.3-1.

(i) For employees of other Executive agencies, replace the reference in paragraph (c) of the Acknowledgement/Agreement to GSA's supplemental standards with a reference to the applicable agency.

(ii) for nongovernment evaluators, substitute paragraph (c) of the Acknowledgement/Agreement with the following language and delete paragraph (h):

(2) Attach to each proposal a cover page bearing the following notice:

Government Notice for Handling Proposals

To anyone receiving this proposal or proposal abstract:

(1) This proposal must be used and disclosed for evaluation purposes only.

(2) You must apply a copy of this Government notice to any reproduction or abstract of this proposal.

(3) You must comply strictly with any authorized restrictive notices which the submitter places on this proposal.

(4) You must not disclose this proposal outside the Government for evaluation purposes except to the extent authorized by, and in accordance with, the procedures in 48 CFR 515.305-71.

515.305-70 Use of nongovernment evaluators.

(a) *Conditions.* To use nongovernment evaluators, contracting officers must meet the restrictions in FAR 7.503, FAR 37.203 and GSAR 537.2. See also FAR subpart 3.11 and Office of Federal Procurement Policy Letter 11-1, Performance of Inherently Governmental and Critical Functions (http://www.whitehouse.gov/omb/procurement_index_policy/).

(b) *Limitations on disclosing proposal information*. The contracting officer may disclose proposal information outside the Government before the Government's decision as to contract award only to the extent authorized in this section. Disclosure and handling must comply with FAR 3.1 and GSAM 503.104-4.

(c) *Relationship to the Freedom of Information Act*. Release of a proposal outside the Government for evaluation does not constitute the release of information under the Freedom of Information Act (5 U.S.C. 552).

515.305-71 Actions before releasing proposals.

Before releasing any proposal to an evaluator, the contracting officer must take all of the following actions:

(a) Obtain the signed, original "Conflict of Interest Acknowledgment and Nondisclosure Agreement" from each Government and nongovernment individual serving as an evaluator. Use the Acknowledgment/Agreement in Figure 515.3-1. Conflict of Interest Acknowledgment and Nondisclosure Agreement.

(1) For employees of other Executive agencies, replace the reference in paragraph (c) of the Acknowledgment/Agreement to GSA's supplemental standards with a reference to the applicable agency.

(2) For nongovernment evaluators, substitute paragraph (c) of the Acknowledgment/Agreement with the language below and delete paragraph (h):

"(c) I have read and understand the requirements of 41 U.S.C. 2102."

(b) Attach to each proposal a cover page bearing the following notice:

Government Notice for Handling Proposals

To anyone receiving this proposal or proposal abstract–

(1) his proposal must be used and disclosed for evaluation purposes only.

(2) A copy of this Government notice must be applied to any reproduction or abstract of this proposal.

(3) This proposal must not be disclosed to any person outside the Government, unless it is only for evaluation purposes to the extent authorized by, and in accordance with, the procedures in 48 CFR 515.305-70.

FIGURE 515.3-1. CONFLICT OF INTEREST ACKNOWLEDGMENT AND NONDISCLOSURE AGREEMENT

For proposals submitted in response to GSA solicitation no. _____, I agree to the following:

(a) To the best of my knowledge and belief, no conflict of interest exists that may either–

(1) Diminish my capacity to impartially review the proposals submitted; or

(2) Result in a biased opinion or unfair advantage.

(b) In making the above statement, I have considered all the following factors that might place me in a position of conflict, real or apparent, with the evaluation proceedings:

(1) All my stocks, bonds, other outstanding financial interests or commitments.

(2) All my employment arrangements (past, present, and under consideration).

(3) As far as I know, all financial interests and employment arrangements of my spouse, minor children, and other members of my immediate household.

(c) I have read and understand the requirements of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635) and Supplemental Standards of Ethical Conduct for Employees of the General Services Administration (5 CFR 6701).

(d) I have a continuing obligation to disclose any circumstances that may create an actual or apparent conflict of interest. If I learn of any such conflict, I will report it immediately to the contracting officer. I will cease performing duties related to evaluating proposals until I receive instructions on the matter.

(e) I will use proposal information for evaluation purposes only. I understand that any authorized restriction on disclosure placed on the proposal by the prospective contractor, prospective subcontractor, or the Government applies to any reproduction or abstracted information of the proposal.

(f) I will use my best efforts to safeguard proposal information physically. I will not disclose the contents of, nor release any information about, the proposals to anyone other than–

(1) The Source Selection Evaluation Board or other panel assembled to evaluate proposals submitted in response to the solicitation identified above; and

(2) Other individuals designated by the contracting officer.

(g) After completing evaluation, I will return to the Government all copies of the proposals and any abstracts.

(h) GSA Appropriations Act restriction. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Codes, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 *et seq*.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.

_____

(Enter name of evaluator and organization)

_____

Date

515.306 Exchanges with offerors after receipt of proposals.

Limit access to Government cost estimates to Government personnel whose official duties require knowledge of the estimate. During negotiations, the contracting officer may disclose part or all of the Government estimate under FAR 15.306(e) when necessary to arrive at a fair and reasonable price. After award, the contracting officer may reveal the total amount of the independent Government estimate.

515.370 IN-Depth Feedback through Open Reporting Methods (INFORM) Procedures.

515.3700 Scope of section.

The INFORM procedures prescribed in this section provide a standardized approach to GSA's post-award communications with offerors and provide all offerors fair access to data, *i.e.*, successful and unsuccessful offerors with detailed information about their submissions. GSA's INFORM procedures are designed to strengthen the relationship between GSA and industry by providing:

(a) A clear understanding of the underlying rationale of GSA's evaluation and selection process;

(b) Useful feedback which can assist industry with future submissions; and

(c) Sufficient information on why the offeror did or did not receive the award.

515.3701 Definitions.

As used in this section—

"Unredacted" means the information provided to offerors was not significantly altered, modified, edited or revised by GSA prior to distribution.

515.3702 General.

515.3702-1 Applicability.

(a) The INFORM procedures detailed in this section are required for all GSA acquisitions, including DOD assisted acquisitions, with a total estimated contract value (including option years) at or above $10 million unless excluded or exempted per 515.3702-2.

(b) GSA contracting activities shall use the procedures and guidelines as prescribed in this section in conjunction with:

(1) The INFORM Guide at http://insite.gsa.gov/inform,

(2) The guidance in the applicable corresponding FAR parts 8, 12, 15 or 16, and

(3) Any other applicable GSAM part.

(c) If the INFORM procedures in this section are inconsistent with a requirement in another GSAM part, this section 515.370 shall take precedence.

(d) If there is a conflict between the INFORM Guide and this section, this section shall take precedence.

515.3702-2 Exclusions and exemptions.

(a) Exclusions. The following are excluded from the INFORM post-award communication process:

(1) Acquisitions expected to award ten (10) or more contracts or awards in response to a solicitation. Multiple award contracts include but are not limited to, the Federal Supply Schedules (FSS), various Government-Wide IDIQs and GWACs,. The City Pairs Program (CPP) is also excluded. This exclusion does not extend to orders or BPAs placed against the multiple award contracts;

(2) Acquisitions that use the lowest price technically acceptable source selection process (see FAR 15.101-2(c));

(3) Non-competitive sole source procurements;

(4) Mandatory sources identified in FAR 8.002(a) and 8.003, *e.g.*, Federal Prison Industries, AbilityOne;

(5) Emergency acquisitions conducted under the procedures outlined in FAR part 18; and

(6) The acquisition of leasehold interests in real property.

(b) Exemptions. Heads of Contracting Activity (HCAs) may exempt an acquisition from the requirements of this section when it is in the best interest of the Government.

515.3702-3 Authority.

The requirements for notifying, explaining, or debriefing offerors, *i.e.*, successful and unsuccessful offeror can be found in the following Federal Acquisition Regulation (FAR) parts:

(1) FAR 8.405 (Ordering Procedures for the Federal Supply Schedules);

(2) FAR 12.301 (Solicitation Provisions);

(3) FAR 15.503 (Notifications to Unsuccessful Offerors);

(4) FAR 15.506 (Post-award Debrief of Offerors); and

(5) FAR 16.505 (Orders under multiple-award contracts)

An additional authority for providing post-award enhanced debriefing when working with the Department of Defense (DOD) is at DOD Class Deviation 2018-O0011.

515.3702-4 Limitations.

The INFORM procedures will seek to share additional information with offerors in writing and/or through an oral feedback meeting that is not required by statute or regulation. The INFORM procedures are not intended to:

(1) Substitute for industry's full understanding of the work requirements at the time offers are submitted;

(2) Alter the final agreement arrived at in any negotiations leading to contract award; or

(3) Extend the U.S. Government Accountability Office's (GAO) timeliness regulations found at Title 4 of the Code of Federal Regulations (C.F.R.), Part 21; therefore, nothing in the INFORM procedures purports or otherwise seeks to modify the timeliness regulations, in particular 4 C.F.R. § 21.2(a)(2).

515.3703 Policy.

(a) GSA contracting activities shall incorporate the INFORM procedures throughout the acquisition lifecycle.

(b) GSA contracting activities shall provide all offerors, *i.e.*, successful and unsuccessful, with enhanced debrief or explanation feedback without requiring a written request from the offeror, see detail in 515.3703-4 and 515.3703-5.

515.3703-1 Acquisition planning.

Contracting officers shall—

(a) Ensure plans comply with (d); and

(b) Select members of the evaluation team, *e.g.*, members should include functional areas such as contracting, small business, technical, logistics, cost/price, legal, program management and end-user organizations, when appropriate. Evaluation team members should be told of the requirement to be available during the evaluation process, time constraints, and oral feedback meeting.

515.3703-2 Solicitation.

(a) Contracting officers shall incorporate the INFORM solicitation language into all applicable procurements.

(b) Contracting officers may use the INFORM sample solicitation language for FAR part 8, 12, 15, or 16 located at http://insite.gsa.gov/inform.

(c) Contracting officers are encouraged to use the sample language as written, but may change the language to meet the specific needs of the procurement so long as any such change complies with this subpart and the INFORM Guide.

515.3703-3 Evaluation and Selection.

(a) Preaward Notification to Unsuccessful/Unacceptable Offerors. Contracting officers must use a customized Notification Letter and Evaluation Statement (NLES) to notify offerors whose submissions are eliminated from the competition (*e.g.*, not deemed to be part of competitive range or technically unacceptable)

(1) Sample NLES language is located at http://insite.gsa.gov/inform.

(2) Contracting officers must also follow the appropriate FAR Part (e.g. 15.503(a)) to ensure timely notification to unsuccessful offerors.

(3) Contracting officers may delay sending the NLES until the time of award to prevent any delays in awarding the contract or order.

(b) Evaluation. For each procurement using the INFORM post-award communication process, contracting officers are encouraged to—

(1) Design and implement templates for members of the evaluation team to use in evaluating offerors' submissions which can be easily copied and pasted into the NLES (NLES sample language per FAR part is located at http://insite.gsa.gov/inform);

(2) Incorporate language during the evaluation team orientation which commits evaluators to being available during the evaluation, answering of written questions and oral feedback meetings; and,

(3) Obtain the Office of General Counsel (OGC) review (see ADM 5000.4), when applicable.

515.3703-4 Notification of Award.

(a) Notification Letter and Evaluation Statement (NLES). The NLES is an unredacted customized evaluation statement of the specific offeror's submission. The contracting officer provides the NLES even if an offeror does not request a debriefing or information on an award. The NLES must include the following:

(1) All the information outlined in FAR 8.405-2 4(d), 12.102(b), 15.503(b), 15.506(a)(4)(d) or 16.505(b)(6);

(2) Ratings for each evaluation factor, as identified in the solicitation;

(3) A narrative of the offeror's submission strengths and weaknesses and/or deficiencies for each evaluation factor including significant strengths and weaknesses;

(4) Technical rating;

(5) Ranking order of their proposal, if applicable;
(6) Cost/price data ranking chart, if applicable;
(7) An opportunity to attend an oral feedback meeting with the evaluation team; and
(8) An opportunity to ask written questions of the evaluation team (see 515.3703-5 for timelines).

(b) Procedures. The contracting officer, in accordance with the INFORM Guide at http://insite.gsa.gov/inform, shall—

(1) Prepare an NLES for each offer. Contracting activities should use information for the specific offeror from the source selection or evaluation panel reports. Sample NLES documents are available at http://insite.gsa.gov/inform.

(2) Obtain legal sufficiency (see ADM 5000.4).

(3) Send the NLES to each offeror at the time of award or in accordance with the appropriate FAR part. Ensure all minimum requirements from the FAR are addressed.

515.3703-5 Post Notification.

Contracting activities shall—

(a) Within three (3) business days after sending the NLES. Monitor emails for receipt of written follow-up questions or requests for oral feedback meetings.

(b) Within five (5) business days after receipt of any NLES response. Respond in writing to written follow-up questions received or schedule an oral feedback meeting, as appropriate. Contracting officers should try to schedule and conduct the oral feedback meeting within the five (5) business days of the request. A sample format for conducting the oral feedback meeting is at http://insite.gsa.gov/inform.

(c) Within two (2) business days after any oral feedback meeting.

(1) Monitor emails for receipt of written follow-up questions.

(2) Within five (5) business days after receipt of any follow-up questions. Respond in writing to written questions received.

(d) Upon concluding INFORM procedures. Advise the offeror(s) that:

(1) The INFORM process has concluded;
(2) The FAR requirement for debriefing or explanation, as appropriate, has been met; and
(3) No further questions will be answered.

Subpart 515.4 - Contract Pricing

515.403 Obtaining certified cost or pricing data.

515.403-4 Requiring certified cost or pricing data (10 U.S.C. chapter 271 and 41 U.S.C. 254b).

To determine if a contract action meets the threshold at FAR 15.403-4 for requesting certified cost and pricing data, the contracting officer shall consider the value of the action plus any priced options. Exercise of a priced option is not a price adjustment and does not require submission of certified cost and pricing data.

515.404 Proposal Analysis.

515.404-1 Proposal analysis techniques.

(a) *FAR deviation.* GSA has a class deviation from FAR 15.404-1(d)(2) that clarifies when a cost realism analysis is required for awards issued by GSA.

(1) *Solicitation requirements for GSA multiple-award IDIQ contracts*. The solicitation for a GSA multiple-award IDIQ must explain that a cost-realism analysis is not being performed at the IDIQ contract level, but instead will be performed at the task order level for cost-reimbursement orders;

(2) *Ordering guidance for GSA multiple-award IDIQ contracts*. The ordering guidance for a GSA multiple-award IDIQ must include instruction that a cost realism analysis shall be performed at the order level for any cost-reimbursement orders; and

(b) *Contracting officer responsibilities*. Contracting officers must include the following when addressing cost realism:

(1) *Solicitation requirements for GSA multiple-award IDIQ contracts*. The solicitation for a GSA multiple-award IDIQ must explain that a cost-realism analysis is not being performed at the IDIQ contract level, but instead will be performed at the task order level for cost-reimbursement orders;

(2) *Ordering guidance for GSA multiple-award IDIQ contracts*. The ordering guidance for a GSA multiple-award IDIQ must include instruction that a cost realism analysis shall be performed at the order level for any cost-reimbursement orders; and

(3) *Solicitation requirements for cost-reimbursement orders.* The solicitation for a cost-reimbursement task order must include a statement documenting that a cost realism analysis shall be performed as part of the selection decision.

515.404-2 Information to support proposal analysis.

(a) "Field pricing assistance" is provided by the Assistant Inspector General for Auditing, or the Regional Inspector General for Auditing, as appropriate.

(b) Follow the procedures in GSA Order ADM 2030.2, Internal Audit Follow-up Handbook, for handling contract audit reports.

515.404-70 Profit Analysis.

(a) *Structured approach for determining profit or fee objectives*. The contracting officer shall base the analysis of profit factors on information available to the Government before negotiations. The contracting officer may obtain such information from proposals, audit data, performance reports, preaward surveys and the like. The structured approach helps establish a profit objective. It also provides a basis for documenting the objective, including an explanation of any significant departure from this objective in reaching a final agreement. The contracting officer shall prepare documentation commensurate with the dollar value and complexity of the proposed procurement.

(b) *Exemptions from requirement to use the structured approach*.

(1) The following types of procurements are exempt from the structured approach:

(i) Management contracts for operation and/or maintenance of Government facilities.

(ii) Contracts primarily requiring delivery of material supplied by subcontractors.

(iii) Termination settlements.

(iv) Cost-plus-award-fee contracts.

(v) Contracts and contract modifications below the simplified acquisition threshold.

(vi) Architect-engineer and construction contracts.

(2) The contracting officer may request exemptions for other contracts having unusual pricing situations where the contracting officer determines that the structured approach is unsuitable. The contracting officer shall document the justification in writing. The HCA must approve all such exemptions.

(c) *Other methods for exempted procurements*. Under exempted procurements, the contracting officer shall use other methods for establishing profit objectives. In general, the contracting officer shall use methods supported in a manner similar to the structured approach (profit factor breakdown and documentation of profit objective). Exclude factors within the structured approach that do not apply to the procurement.

(d) *Profit-analysis factors*. The contracting officer shall consider the following factors when negotiating profit. Use the weight ranges listed after each factor when using the structured approach.

	Profit Factors	**Weight Ranges in Percent**
Contractor Effort	Material acquisition	1 to 4
	Conversion direct labor	4 to 12
	Conversion related indirect cost: Other costs General management	1 to 3 2 to 5
Other Factors	Contract cost risk	0 to 7
	Capital investments	-2 to +2

	Profit Factors	Weight Ranges in Percent
	Federal socioeconomic programs	-.5 to +.5
	Cost-control and other past accomplishments	-2 to +2
	Independent development and additional factors	-2 to +2

(e) GSA Form 1766. The contracting officer may use GSA Form 1766, Structured Approach Profit/Fee Objective, to help compute the profit objective. Measure the Contractor Effort by assigning a profit percentage within the designated weight ranges to each element of cost recognized.

(f) *Facilities capital cost of money*. If the contracting officer allows facilities capital cost of money as an item of cost, either as a part of the price/cost objective in a firm fixed price type contract or as an allowable cost in a flexibly priced type contract, *e.g.*,cost reimbursement or fixed price incentive type contract, reduce the profit/fee objective as follows. After a dollar profit/fee amount for the requirement is developed, subtract from that aggregate dollar profit/fee amount any dollar amount allowed for facilities capital cost of money. The remainder is the profit/fee objective.

(g) *Calculating profit dollars*. After computing a total dollar profit for Contractor Effort, calculate the specific profit dollars for the categories under Other Factors. Do this by multiplying the total Government cost objective, excluding any cost of money for facilities capital, by the specific weights assigned to the elements in Other Factors.

(h) *Common factors*. In determining the value of each factor, consider the definition, description, and purpose of the factors prescribed in FAR 15.404-4(d) and this subsection.

(1) *General management*. Management problems surface in various degrees. Consider the management expertise exercised to solve them as an element of profit. For example, a new program for an item that involves advanced state of the art techniques may involve more problems and require more managerial time and abilities of a higher order than a follow-on contract. If an initial contract creates more problems and merits a higher profit weight, then a follow-on should merit a downward adjustment, as many of the problems should have been solved. Evaluate the underlying managerial effort involved on a case-by-case basis.

(2) *Other costs*. Include all other direct costs of contractor performance under this item (*e.g.*, travel and relocation, direct support, and consultants). When these costs are analyzed, consider–

(i) Their significance;

(ii) Their nature; and

(iii) How much they contribute to contract performance.

(3) *Contract cost risk*. When the contracting officer selects the proper contract type, the reward for risk by contract type will usually fall into the ranges below.

(i) *Cost-reimbursement type contracts*. 0–3 percent. A cost-plus-a-fixed-fee contract does not normally justify a reward for risk in excess of 0 percent. Only a contract that contains cost risk features such as ceilings on overhead might merit a higher weight. Such cases may justify up to 1percent. Cost-plus-incentive-fee contracts fill the remaining portion of the 0 to 3 percent range. For these, assign weightings based on such factors as confidence in target cost, share ratio of fee(s), etc.

(ii) *Fixed-price type contracts*. 3–7 percent. This weight range is wide enough to accommodate the many types of fixed-price arrangements. Assign weightings based on the cost risk assumed. Only firm fixed-price contracts should reach the top end of the range.

(iii) *Subcontracting program*. The contractor's subcontracting program may significantly impact the contractor's risk under a contract. It could affect risk in terms of both cost and performance. Consider this in selecting a weight for cost risk. The prime contractor may effectively transfer cost risk to a subcontractor. This merits a risk evaluation below the range that would otherwise apply for the contract type proposed. However, the contracting officer should not evaluate risk lower when a substantial portion of the contract cost represents subcontracts, but without any substantial transfer of contractor's risk.

(iv) *Definitizing letter contracts, unpriced change orders, and unpriced orders under basic ordering agreements*. Consider the effect on risk as a result of partial performance before definitization. Some circumstances may effectively reduce the contractor's total risk, while others may have no effect. Determine an equitable profit weight for all recognized

costs, both those incurred and future costs. Consider all attendant circumstances, not just the portion of costs incurred or percentage of work completed before definitization.

(v) *Service contracts*. Apply a weight range of 0 to 4 percent for cost risk. A firm fixed-price contract, not priced on a labor-hour method, may warrant high consideration for contractor cost risk. It may merit a weight up to 4percent. Conversely, a cost-plus-fixed-fee service contract normally warrants a zero cost risk factor.

(4) *Capital investments*. In evaluating this factor for profit weights, consider the following:

(i) *Facilities*. (A) To evaluate how this factor contributes to the profit objective, the contracting officer needs to know the level of facilities use needed for contract performance, the source of financing for the facilities, and the overall cost effectiveness of the facilities offered.

(B) Contractors who furnish their own facilities that significantly contribute to lower total contract costs, warrant additional profit. Contractors who rely on the Government to provide or finance facilities warrant less profit. Evaluate situations between the above examples on their merits and make either a positive or negative profit weight adjustment, as appropriate.

(C) The contracting officer is not required to adjust the profit when a contractor who owns a large quantity of facilities will perform a contract that does not benefit from these facilities, or when a contractor's use of its facilities has a minimum cost impact on the contract.

(ii) *Payments*. Consider the frequency of payments by the Government to the contractor. Assess the impact the contract will have on the contractor's cash flow. Generally, payments more frequent than monthly merit negative consideration, with maximum reduction as the contractor's working capital approaches zero. Payments less frequent than monthly merit positive consideration, with additional consideration for payments less frequent than the contractor's or the industry's normal practice.

(i) *Nonprofit organizations*. (1) The structured approach for determining profit or fee objectives was designed for other than nonprofit organizations. However, if modified as below, the contracting officer may use it to establish fee objectives for nonprofit organizations (See FAR 31.701). Do not apply the modifications as a deduction to historical fee levels. Instead apply them as a reduction in the fee objective calculated under the structured approach.

(2) For contracts with nonprofit organizations, subtract an adjustment of up to 3percent from the total profit-fee objective. In developing this adjustment, consider each of the following factors:

(i) Tax position benefits.

(ii) Granting of financing through letters of credit.

(iii) Facility requirements of the nonprofit organization.

(iv) Other factors that may work to the advantage or disadvantage of the contractor as a nonprofit organization.

515.408 Solicitation provisions and contract clauses.

MAS REQUESTS FOR INFORMATION OTHER THAN COST OR PRICING DATA

(a) Use Alternate IV of the FAR provision at 52.215-20, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data, for MAS solicitations to provide the format for submission of information other than cost or pricing data for MAS solicitations. To provide uniformity in requests under the MAS program, you should insert the following in paragraph (b) of the provision:

(1) Commercial sales practices. When the solicitation contains the basic clause 552.238-80 Industrial Funding Fee and Sales Reporting, the Offeror must submit information in the format provided in this solicitation in accordance with the instructions at Figure 515.4-2 of the GSA Acquisition Regulation (48 CFR 515.4-2), or submit information in the Offeror's own format.

(2) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(3) By submission of an offer in response to this solicitation, the Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before initial award, books, records, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to

determine the reasonableness of price(s). Access does not extend to Offeror's cost or profit information or other data relevant solely to the Offeror's determination of the prices to be offered in the catalog or marketplace.

(b) When the contract contains the basic clause 552.238-80 Industrial Funding Fee and Sales Reporting, insert the following format for commercial sales practices in the exhibits or attachments section of the solicitation and resulting contract (see FAR 12.303).

COMMERCIAL SALES PRACTICES FORMAT

Name of Offeror _____ **SIN(s)** _____

NOTE: Provide the following information for each SIN (or group of SINs or Sub SIN for which information is the same).

(1) Provide the dollar value of sales to the general public at or based on an established catalog or market price during the previous 12-month period or the offerors last fiscal year: $_____. State beginning and ending of the 12 month period. Beginning _____ ending _____. In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).

(2) Show your total projected annual sales to the Government under this contract for the contract term, excluding options, for each SIN offered. If you currently hold a Federal Supply Schedule contract for the SIN the total projected annual sales should be based on your most recent 12months of sales under that contract.

SIN _____ $ _____
SIN _____ $ _____
SIN _____ $ _____

(3) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), are the discounts and any concessions which you offer the Government equal to or better than your best price (discount and concessions in any combination) offered to any customer acquiring the same items regardless of quantity or terms and conditions? YES_____ NO_____

(4) (a) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), provide information as requested for each SIN (or group of SINs for which the information is the same) in accordance with the instructions at Figure 515.4, which is provided in this solicitation for your convenience. The information should be provided in the chart below or in an equivalent format developed by the offeror. Rows should be added to accommodate as many customers as required.

Column 1 Customer	Column 2 Discount	Column 3 Quantity/Volume	Column 4 FOB Term	Column 5 Concessions

(b) Do any deviations from your written policies or standard commercial sales practices disclosed in the above chart ever result in better discounts (lower prices) or concessions than indicated? YES_____NO_____. If YES, explain deviations in accordance with the instructions at Figure 515.4, which is provided in this solicitation for your convenience.

(5) If you are a dealer/reseller without significant sales to the general public, you should provide manufacturers' information required by paragraphs(1) through (4) above for each item/SIN offered, if the manufacturer's sales under any resulting contract are expected to exceed $500,000. You must also obtain written authorization from the manufacturer(s) for Government access, at any time before award or before agreeing to a modification, to the manufacturer's sales records for the purpose of verifying the information submitted by the manufacturer. The information is required in order to enable the Government to make a determination that the offered price is fair and reasonable. To expedite the review and processing of offers, you should advise the manufacturer(s) of this requirement. The contracting officer may require the information be submitted on electronic media with commercially available spreadsheet(s). The information may be provided by the manufacturer directly to the Government. If the manufacturer's item(s) is being offered by multiple dealers/resellers, only one copy of the requested information should be submitted to the Government. In addition, you must submit the following information along with a listing of contact information regarding each of the manufacturers whose products and/or services are included in the offer (include the manufacturer's name, address, the manufacturer's contact point, telephone number, and FAX number) for each model offered by SIN:
(a) Manufacturer's Name.
(b) Manufacturer's Part Number.
(c) Dealer's/Reseller's Part Number.
(d) Product Description.
(e) Manufacturer's List Price.
(f) Dealer's/Reseller's percentage discount from list price or net prices.

(End of Format)

(c) When the contract contains the basic clause 552.238-80 Industrial Funding Fee and Sales Reporting, include the instructions for completing the commercial sales practices format in Figure 515.4-2 in solicitations issued under the MAS program. Offerors are not required to complete the commercial sales practices disclosure for order-level materials (See subpart 538.72).

Figure 515.4 Instructions for Commercial Sales Practices Format

If you responded "yes" to question (3), on the Commercial Sales Practices Format in paragraph (b) of this section, complete the chart in question (4)(a) for the customer(s) who receive your best discount. If you responded "no", complete the chart in question (4)(a) showing your written policies or standard sales practices for all customers or customer categories to whom you sell at a price (discounts and concessions in combination) that is equal to or better than the price(s) offered to the Government under this solicitation or with which the Offeror has a current agreement to sell at a discount which equals or exceeds the discount(s) offered under this solicitation. Such agreement shall be in effect on the date the offer is submitted or contain an effective date during the proposed multiple award schedule contract period. If your offer is lower than your price to other customers or customers categories, you will be aligned with the customer or category of customer that receives your best price for purposes of the Price Reductions clause at 552.238-81. The Government expects you to provide information required by the format in accordance with these instructions that is, to the best of your knowledge and belief, current, accurate, and complete as of 14 calendar days prior to its submission. You must also disclose any changes in your price list(s), discounts and/or discounting policies which occur after the offer is submitted, but before the close of negotiations. If your discount practices vary by model or product line, the discount information should be by model or product line as appropriate. You may limit the number of models or product lines reported to those which exceed 75% of actual historical Government sales (commercial sales may be substituted if Government sales are unavailable) value of the special item number (SIN).

Column 1—Identify the Applicable Customer or Category of Customer
A "customer" is any entity, except the Federal Government, which acquires supplies or services from the Offeror. The term customer includes, but is not limited to original equipment manufacturers, value added resellers, state and local Governments, distributors, educational institutions (an elementary, junior high, or degree granting school which maintains a regular faculty and established curriculum and an organized body of students), dealers, national accounts, and end users. In any instance where the Offeror is asked to disclose information for a customer, the Offeror may disclose information by category of customer if the Offeror's discount policies or practices are the same for all customers in the category. (Use a separate line for each customer or category of customer.)
Column 2—Identify the Discount
Indicate the best discount (based on your written discounting policies or standard commercial discounting practices if you do not have written discounting policies) at which you sell to the customer or category of customer identified in column 1, without regard to quantity; terms and conditions of the agreements under which the discounts are given; and whether the agreements are written or oral. Net prices or discounts off of other price lists should be expressed as percentage discounts from the price list which is the basis of your offer. If the discount disclosed is a combination of various discounts (prompt payment, quantity, etc.), the percentage should be broken out for each type of discount. If the price lists which are the basis of the discounts given to the customers identified in the chart are different than the price list submitted upon which your offer is based, identify the type or title and date of each price list. The contracting officer may require submission of these price lists. To expedite evaluation, offerors may provide these price lists at the time of submission.
Column 3—Identify the Quantity or Volume of Sales
Insert the minimum quantity or sales volume which the identified customer or category of customer must either purchase/ order, per order or within a specified period, to earn a discount indicate the time period.

Column 4—Indicate the FOB Delivery Term for Each Identified Customer

See FAR 47.3 for an explanation of FOB delivery terms.
Column 5—Indicate Concessions Regardless of Quantity Granted to the Identified Customer or Category of Customer
Concessions are defined in solicitation clause 552.12-70, Preparation of Offers (Multiple Award Schedule). If the space provided is inadequate, the disclosure should be made on a separate sheet by reference.
If you respond "yes" to question 4(b) in the Commercial Sales Practices Format, provide an explanation of the circumstances under which you deviate from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format and explain how often they occur. Your explanation should include a discussion of situations that lead to deviations from standard practice, an explanation of how often they occur, and the controls you employ to assure the integrity of your pricing. Examples of typical deviations may include, but are not limited to, one time goodwill discounts to charity organizations or to compensate an otherwise disgruntled customer; a limited sale of obsolete or damaged goods; the sale of sample goods to a new customer, or the sales of prototype goods for testing purposes.
If deviations from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format are so significant and/or frequent that the Contracting Officer cannot establish whether the price(s) offered is fair and reasonable, then you may be asked to provide additional information. The Contracting Officer may ask for information to demonstrate that you have made substantial sales of the item(s) in the commercial market consistent with the information reflected on the chart on the Commercial Sales Practices Format, a description of the conditions surrounding those sales deviations, or other information that may be necessary in order for the Contracting Officer to determine whether your offered price(s) is fair and reasonable. In cases where additional information is requested the Contracting Officer will target the request in order to limit the submission of data to that needed to establish the reasonableness of the offered price.

(End of Figure)

(d) Use Alternate IV of FAR 52.215-21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications, to provide for submission of information other than cost or pricing data for MAS contracts. To provide for uniformity in requests under the MAS program, insert the following in paragraph (b) of the clause:

(1) Information required by the clause at 552.238-82, Modifications (Multiple Award Schedule).

(2) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(3) By submitting a request for modification, the Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before agreeing to a modification, books, records, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to determine the reasonableness of price(s). Access does not extend to Contractor's cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

Subpart 515.6 - Unsolicited Proposals

515.604 Agency points of contact.

(a) All unsolicited proposals that meet the criteria at FAR 15.605 and FAR 15.606-1(a) shall be submitted following the format posted at https://www.gsa.gov/unsolicitedproposal.

(b) The Office of Acquisition Policy will forward the proposal to the appropriate HCA, except as stated in paragraph (c). HCAs are responsible for review and response to forwarded unsolicited proposals.

(c) Unsolicited proposals that may apply to agency-wide programs will remain with the Office of Acquisition Policy for review and response.

515.606 Agency procedures.

515.606-1 Receipt and initial review.

(a) Before initiating a comprehensive evaluation, the agency point of contact, identified in 515.604, shall determine if the proposal meets the requirements of FAR 15.606-1(a).

(b) If the proposal qualifies, the HCA or the Office of Acquisition Policy shall inform the offeror of receipt and process the proposal in accordance with FAR 15.606-1(b) and 515.606-2.

(c) If the proposal does not qualify, the HCA or the Office of Acquisition Policy shall inform the offeror of why the proposal was rejected in accordance with FAR 15.606-1(c).

(d) Sample responses can be found on the Acquisition Portal at https://insite.gsa.gov/unsolicitedproposal.

515.606-2 Evaluation.

(a) The HCA or the Office of Acquisition Policy should complete the evaluation as soon as practicable, normally within 14 calendar days for initial review or 90 calendar days for comprehensive evaluation.

(b) The HCA or the Office of Acquisition Policy shall complete a comprehensive evaluation in accordance with the factors listed in FAR 15.606-2 and any other factors deemed appropriate.

(c) Once complete, the HCA or Office of Acquisition Policy should communicate the results of the evaluation to the offeror.

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PART 516 - TYPES OF CONTRACTS

Sec.

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PART 516 - TYPES OF CONTRACTS

Subpart 516.2 - Fixed Price Contracts

516.203 Fixed-price contracts with economic price adjustment (EPA).

516.203-2 Application.

(a) Changes to a Government contract price that result from a change in the actual cost of labor based on Department of Labor wage determinations are addressed in FAR Subparts 22.4 and 22.10.

(b) Changes to a Government contract price that result from a change in designated indicators should be processed as follows:

(1) The contracting officer shall evaluate the reasonableness of the proposed market indicator. The indicator should:

(i) Be used only when general economic factors make the estimating of future costs unpredictable within a fixed-price contract;

(ii) Be considered before using an EPA including volatile labor and/or material cost and contractual length;

(iii) Be relevant to the service or product solicited;

(iv) Have an established history;

(v) Be published regularly;

(vi) Be reasonably available in the future; and

(vii) Should not provide for an adjustment beyond the original contract period of performance, including options. The start date for the adjustment may be the beginning of the contract or a later time, as appropriate, based on the projected rate of expenditures.

(2) Selection of the indicators to be used and determination of how they will be applied are negotiable and must be determined prior to award. For example, a broad-based market indicator, such as that issued by the Bureau of Labor Statistics, can be applied uniformly to all categories if the contractor routinely applies across the board wage increases. If a contractor's wage changes vary by skills, the economic price adjustment should be based on specific matched categories.

(3) The contracting officer and the contractor shall agree on the economic price adjustment prior to the completion of negotiations. The contracting officer shall document the file.

(c) If, during the course of the contract, the contractor proposes a change in price adjustment methods, the contracting officer should require appropriate consideration from the contractor for any lowering of the contractor's risk.

516.203-3 Limitations.

(a) When including an economic price adjustment clause, the contracting officer shall document, in the contract file, the determination required by FAR 16.203-3.

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

(1) If an economic price adjustment clause provides for price increases during the first 12 months of a multiyear contract, a determination to include an economic price adjustment clause in a solicitation or contract of one year or less is needed.

(2) The use in a contract of any economic price adjustment clause that was not included 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 requests 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, the contracting officer must modify the contract to reflect the revised ceiling.

516.203-4 Contract clauses.

(a) *Special Order Program Contracts*. In multiyear solicitations and contracts, after making the determination required by FAR 16.203-3, use 552.216-71, Economic Price Adjustment—Special Order Program Contracts, or a clause prepared as authorized in paragraph (a)(3) 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.

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

(1) If the contracting officer decides 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; and

(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

516.403 [Reserved]

516.403-2 Fixed-price incentive contracts.

The formula specified in FAR 16.403-2(a)(1)(iii) does not apply for the life of the contract. Instead, it is used to fix the firm target profit for the contract. In order to provide an incentive consistent with the circumstances, the formula should reflect the relative risk involved in establishing an incentive arrangement where cost and pricing information were not sufficient to permit the negotiation of firm targets at the outset.

516.405 [Reserved]

516.405-1 Cost-reimbursement incentive contracts.

Appropriate weight shall be given to basic acquisition objectives in negotiating the range of fee and the fee adjustment formula. For example—

(a) In an initial product development contract, it may be appropriate to provide for relatively small adjustments in fee tied to the cost incentive feature, but provide for significant adjustments if the contractor meets or surpasses performance targets; and

(b) In subsequent development and test contracts, it may be appropriate to negotiate an incentive formula tied primarily to the contractor's success in controlling costs.

Subpart 516.5 - Indefinite-Delivery Contracts

516.500 Scope of section.

COs shall follow the INFORM procedures in section 515.370 for all applicable orders.

516.500-1 General.

Solicitations under indefinite delivery contracts that are not set-aside should consider inclusion of a small business participation evaluation factor as described in 515.304.

516.505 Ordering.

(a) *Use of Lowest Price Technically Acceptable*. Lowest price technically acceptable may be a useful evaluation process when placing task or delivery orders. FAR 16.505(b)(1)(ii)(F) prescribes when this process is appropriate to use. For assisted

acquisitions for DoD, DFARS 216.505(b)(1)(A) prescribes the required LPTA considerations. A contracting officer should not use this process without doing the following:

(1) *Documentation requirements*. If the contract's ordering instructions allow for the use of the lowest price technically acceptable, the rationale for why this method of evaluation is being utilized should be clearly described in the acquisition plan (see FAR 7.105(b)(4)). The rationale should include a description as to why utilizing this methodology will not harm the Government.

(b) *Task-order and delivery-order ombudsman*. C

(1) *Contract Level*. For solicitations and contracts when GSA multiple-award indefinite-delivery indefinite-quantity (IDIQ) contracts are contemplated, contracting officers shall reference http://www.gsa.gov/ombudsman when completing paragraph (a) of FAR clause 52.216-32, Task-Order and Delivery-Order Ombudsman.

(2) *Order Level* .

(i) *GSA orders*. For task and delivery orders placed by GSA under multiple-award, multiple-agency IDIQ contracts, contracting officers shall reference http://www.gsa.gov/ombudsman when completing paragraph (d) of Alternate I FAR Clause 52.216-32.

(ii) *Non-GSA orders*. For task and delivery orders placed by agencies other than GSA under GSA multiple-award, multiple-agency IDIQ contracts, ordering activity contracting officers shall reference the contact information of that ordering agency's task-order and delivery-order ombudsman when completing paragraph (d) of Alternate I FAR Clause 52.216-32.

516.506 Solicitation provisions and contract clauses.

(a) In solicitations and contracts for Special Order Program items, when the contract authorizes the Federal Acquisition Service (FAS) and other activities to issue delivery or task orders, insert the clause at 552.216-72, Placement of Orders. If only FAS will issue delivery or task orders, insert the clause with its Alternate I.

(b) If the clause at 552.216-72 is prescribed, insert the provision at 552.216-73, Ordering Information, in solicitations for Special Order Program items and in other FAS Program solicitations. Use 552.216-73 Alternate I when 552.216-72 Alternate I is prescribed.

(c) The Contracting Officer may insert clause 552.216-75 in solicitations and GSA-awarded IDIQ contracts, not including Federal Supply Schedule (FSS) contracts. This clause should be included in all GSA-awarded Governmentwide acquisition contracts and multi-agency contracts. See 538.273 for clauses applicable to FSS contracts.

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

516.601 Time-and-materials contracts.

For a D&F for a time-and-material contract exceeding three years, the D&F must be approved by the HCA. HCAs may designate approval authority for the D&F to a level no lower than the Contracting Executive (see FAR 16.601(d)).]

516.603 Letter contracts.

516.603-70 Additional limitations on the use of letter contracts for architect-engineer (A-E) services under the PBS Design Excellence Program.

(a) *Requirement for a price proposal*. The proposed A-E must provide a price proposal for the non-design effort before the award of a letter contract. In accordance with FAR 52.216-25, a complete price proposal is required before definitization.

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

(1) The scope. The scope of the letter contract must authorize only 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.). The A-E shall not begin any design effort before the letter contract is definitized for the entire scope of the project.

(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 120 days after the date of the letter contract.

(3) The letter contract must comply with FAR 16.6.

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

PART 517 - SPECIAL CONTRACTING METHODS

Sec.

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PART 517 - SPECIAL CONTRACTING METHODS

Subpart 517.1 - Multi-year Contracting

517.101 Authority.

(a) In addition to the multi-year authority described in FAR 17.101, GSA is authorized to enter into contracts for periods not to exceed–

(1) Five years for the inspection, maintenance, and repair of fixed building equipment in federally owned buildings (40 U.S.C. 581(c)(6)); or

(2) Ten years for public utility services (40 U.S.C. 501(b)(1)(B)).

(b) Contracting officers may award contracts under the authority of paragraph (a)(1) or paragraph (a)(2) of this section without a cancellation clause.

517.103 Definitions.

"Fixed equipment in federally-owned buildings" means all GSA mechanical equipment, including heating/cooling (geothermal), ventilation, electrical (wind/photovoltaic), elevator, escalator, and fire safety systems, components, and devices.

517.109 Contract clause.

Use of the FAR clause at 52.217-2 is optional in multi-year contracts authorized by—

(a) 40 U.S.C. 581(c)(6) for the inspection, maintenance, and repair of fixed equipment in a federally-owned building; and

(b) 40 U.S.C. 501(b)(1)(B) for public utility services.

Subpart 517.2 - Options

517.200 Scope of subpart.

(a) Except as provided in paragraph (b) of this section, this subpart applies to contracts for supplies and services, including architect-engineer services.

(b) Policies and procedures for the use of options in solicitation provisions and contract clauses for services involving construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property are prescribed in 536.270. FAR subpart 17.2 and this subpart do not apply to the use of options in solicitation provisions and contract clauses for services involving construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property.

517.202 Use of options.

(a) Options may be used when they meet one or more of the following objectives:

(1) Reduce procurement lead time and associated costs.

(2) Ensure continuity of contract support.

(3) Improve overall contractor performance.

(4) Facilitate longer term contractual relationships with those contractors that continually meet or exceed quality performance expectations.

(b) An option is normally in the Government's interest in the following circumstances:

(1) There is an anticipated need for additional supplies or services during the contract term.

(2) When there is both a need for additional supplies or services beyond the basic contract period and the use of multi-year contracting authority is inappropriate.

(3) There is a need for continuity of supply or service support.

(c) An option shall not be used if the market price is likely to change substantially and an economic price adjustment clause inadequately protects the Government's interest.

517.204 Contracts.

(a) Telecommunication contracts may not exceed 10 years.

(b) Public utility contracts are limited to 10 years (40 U.S.C. 501(b)(1)(B).

(c) *Requests to exceed 5-year limitation*. A deviation request to exceed the 5-year limitation specified in FAR 17.204(e) must provide all the following information:

(1) Clearly explain the contract(s) and organization(s) covered by the request.

(2) Support the need for and reasonableness of the extension. Consider factors such as the following:

(i) The results of market research.

(ii) Stability of the requirement(s).

(iii) Benefits to the Government.

(iv) Use of a performance-based contracting approach.

(v) Availability of funds to cover estimated cancellation costs as well as costs for the first contract period.

(vi) Customary commercial practice.

(vii) Mechanisms to adjust for economic fluctuations.

(d) *Approval authority*. Deviation requests to exceed the 5-year limitations specified in FAR 17.204(e) must be approved by–

(1) The head of the contracting activity for individual contracts; and

(2) GSA's Senior Procurement Executive for classes of contracts.

517.207 Exercise of options.

In addition to the requirements of FAR 17.207, the contracting officer shall:

(a) Document the contract file with the rationale for exercising the contract option to extend the period of performance if the contractor's performance under the contract is less than satisfactory.

(b) Determine that the option price is fair and reasonable.

(c) If applicable, consider any tiered solutions (see subpart) or mandated solutions that were otherwise not available at the time of award.

(d) Conduct a Personal Identity Verification card review to determine the need for continued access, see 504.1370(c). This function may be delegated to the COR.

(e) For FSS contracts, verify the contractor is currently in compliance with GSAR clause 552.238-77 Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists., Submission and Distribution of Authorized Federal Supply Schedule Price Lists.

(f) If applicable, verify that the contractor's subcontracting plan goals have been reviewed and approved (inclusive of any amendments) and review the contractor's performance and compliance under the subcontracting plan (see FAR 19.705-6 and 19.706, and 519.706 Responsibilities of the cognizant administrative contracting officer.).

517.208 Solicitation provisions.

(a) Insert a provision substantially the same as the provision at 552.217-70, Evaluation of Options, in solicitations for the Special Order Program when the following conditions apply:

(1) The solicitation contains an option to extend the term of the contract; and

(2) The contract will be fixed price and contain an economic price adjustment clause.

(b) Insert a provision substantially the same as the provision at 552.217-71, Notice Regarding Option(s), in solicitations that include an option for increased quantities of supplies or services or an option clause to extend the term of the contract.

Subpart 517.5 - Interagency Acquisitions

517.502 Procedures.

(a) *General*.

(1) GSA provides interagency acquisition (IA) services to support the mission of federal agencies, foster competition and use of economies of scale, and provide options for agencies to meet their administrative and procurement needs.

(2) The Office of Acquisition Policy maintains tools and resources for the acquisition workforce on the GSA Acquisition Portal (http://insite.gsa.gov/interagencyacquisition).

(3) When conducting interagency acquisitions, an interagency agreement must be signed by the HCA. HCAs may designate approval authority for the interagency agreement to a level no lower than the Contracting Director.

(4) For PBS Reimbursable Work Authorizations (RWA), only authorized PBS Officials shall accept an RWA in accordance with PBS National RWA Policy available at www.gsa.gov/rwa.

(b) *Cut-Off Dates*.

(1) Heads of Contracting Activities shall devise and publicize cut-off dates to accept interagency acquisitions for their respective organization(s) in support of this subpart. The decision to accept funds near the end of the fiscal year must be determined on a case-by-case basis taking into consideration the following at a minimum:

(i) funding requesting agency assurance that the funds are current;

(ii) understanding of the type of funds (*e.g.* one-year, multi-year, no-year);

(iii) time required for GSA to properly obligate the funds; and

(iv) confirmation that the requesting agency has submitted a "bona fide needs" statement.

(2) Cut-off dates do not apply when accepting no-year funds. Cutoff dates do not apply to multi-year funds not near expiration or within the final year that the funds are eligible for use.

(3) Once accepted, GSA must expeditiously and diligently begin work on all interagency acquisitions it accepts.

(c) *Reasonable Time*.

(1) Policy. When establishing interagency agreements, contracting activities must obligate funds in a reasonable time.

(2) Definition. A reasonable time is considered to be 90 calendar days unless otherwise established in the interagency agreement or other policy. Contracting activities must examine with particular care if the 90 calendar day acquisition lead time can be achieved by:

(i) using an existing contract or task/delivery order which can be awarded or modified expeditiously to meet the requesting agency's requirement; and

(ii) validating that the requesting agency-specific fiscal policy attached to the funds (*e.g.*, DoD 7000.14-R Financial Management Regulation Volume 11A Chapter 18) does not have any applicable restrictions which would prevent the use of 90 calendar days as a "reasonable time".

(3) Criteria for establishing "reasonable time". For interagency acquisitions in which the contracting activity has determined the "reasonable time" to be in excess of 90 calendar days, the contracting officers must:

(i) ensure that the "reasonable time" is mutually agreed upon and documented between the requesting agency and the GSA contracting activity at the time funds' are accepted (*e.g.* date specified on GSA Form 2957);

(ii) ensure that the requesting agency-specific fiscal policy restrictions are adhered to (*e.g.*, DoD 7000.14-R Financial Management Regulation Volume 11A Chapter 18); and

(iii) document the rationale for establishing a "reasonable time" which is in excess of 90 calendar days.

(d) *Periodic Reviews*. Contracting officers must review all interagency acquisition obligations for goods or services that have been ordered but not yet received (undelivered orders/unfilled customer orders) at fiscal year-end. Generally speaking, if the interagency acquisition is for goods or services that were not delivered within the funds period of availability, the funds must be deobligated and current funds used, unless the goods could not be delivered because of delivery, production or manufacturing lead time, or unforeseen delays that are out of the control and not previously contemplated by the contracting parties at the time of contracting.

(e) *Resolving Interagency Policy Differences.* Any inconsistency in the applicability of requesting agency and GSA policy shall be resolved by considering the following:

(1) Where there is a conflict between the requesting agency and GSA policy, refer to the interagency agreement to resolve the conflict. If the interagency policy is not clear, document what the conflict is and request guidance as to what the governing policy is from the Office of General Council (OGC).

(2) When the requesting agency's policy is less restrictive than GSA's policy (e.g., higher dollar authority, streamlined procedures) and the interagency agreement does not identify which policy to follow, the contracting officer has discretion on which policy to follow. However, the contracting officer must consult with Service-level acquisition management (*e.g.*, FAS OPC, PBS OAM) and OGC if following the less restrictive policy to ensure GSA has adequate controls in place and has the authority to utilize the less restrictive policy.

(3) A number of agencies have authorities which GSA does not have. GSA cannot use a requesting agency's given program authority (e.g., Other Transaction Authority (OTA)) unless the authority is specifically delegated to GSA by the requesting agency in a formal delegation.

517.502-70 Information Technology Procurements.

(a) The requesting agency is responsible for the required information technology coordination and approval outlined in Federal Information and Technology Acquisition Reform Act (FITARA) (Pub L. No. 113-291) if the procurement involves information technology for the use of the requesting agency and not for GSA use. This requirement for CIO coordination by the requesting agency should be confirmed by GSA as the servicing agency by ensuring this CIO coordination requirement is documented in the interagency agreement or a separate document.

(b) The requesting agency is responsible for identifying any special or higher level requirements for network connectivity (e.g. security, basic connectivity and communications) beyond the minimum Internet Protocol Version 6 (IPv6) requirements in FAR 11.002(g) for information technology that will have the capability to access the Internet or any network utilizing Internet protocol (IPv4 or IPv6). The special or higher level requirements as well as any deviation from the requirement in FAR 11.002(g) shall be documented in the interagency agreement.

Subpart 517.70 - Delegation of Procurement Authority

517.7001 Delegating authority.

(a) *General*. The GSA Administrator may delegate GSA's statutorily prescribed acquisition authorities to other Federal agencies for accomplishment of mission requirements.

(b) *Purpose*. GSA's delegation of procurement authority (DPA) to another Federal agency can be—

(1) To perform a specific acquisition; or

(2) To perform functions that could include acquisitions as a component thereof.

(c) *Scope*. GSA's delegation of authority to another Federal agency includes all delegations of procurement authority regardless of type or dollar value.

(d) *Specific roles and responsibilities*. Within the scope of GSA’s ability to delegate procurement authorities to other Federal agencies, there are specific roles and responsibilities for GSA components:

(1) HCAs are responsible for:

(i) Developing policies and procedures governing all DPAs, tailored to the mission and organizational structure of the office, which, at a minimum, will consist of the following:

(A) Criteria for identifying those programs and projects that are appropriate for delegation of procurement authority.

(B) Criteria for identifying those programs and projects that are appropriate for delegation of procurement authority.

(C) Procedures for ensuring that each DPA request is appropriately documented, and an accountable official provided by the delegated agency.

(D) Procedures for monitoring and providing oversight of the delegated agency to ensure adherence to the terms of the delegation and all applicable laws and regulations, which may include acquisition management reviews.

(E) Criteria for withdrawal of the delegation of procurement authority.

(F) Appointment of a director to manage and monitor the DPA program.

(G) Notification to the GSA Office of Acquisition Policy of the name and email of the director responsible for the DPA program via email to spe.request@gsa.gov.

(2) The GSA Office of Acquisition Policy is responsible for:

(i) Coordinating approval of the delegation with the Administrator;

(ii) Assisting HCAs, as requested, in establishing DPA programs; and

Providing support to HCAs, as requested, in conducting acquisition management reviews of acquisitions by delegated agencies.(iii)

517.7002 Limitations and exclusions.

(a) *Limitations*. GSA’s delegation of procurement authorities are subject to the following limitations:

(1) GSA must determine that such delegation would serve the Government’s interests by providing an economical and efficient means of supplying the required property, supplies, or services;

(2) The delegated Federal agency is willing and able (based on sufficient contracting activity staffing and training levels) to effectively assume the delegated acquisition authority; and

(3) GSA oversees the exercise of the delegated Federal agency's authority, to ensure compliance with the terms of the delegation and applicable laws and regulations.

(b) *Exclusions*. The following are not GSA delegations of procurement authority and are excluded from GSA's ability to delegate procurement authorities to other Federal agencies:

(1) Situations where a Federal agency has the authority to act without further delegation from GSA but is required to obtain GSA approval;

(2) Situations that arise pursuant to GSA's role as a central management agency (e.g., waivers to GSA Stock Items under Federal Property Management Regulations (FPMR));

(3) Procurements otherwise authorized by the terms of a GSA contract.

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PART 518 - EMERGENCY ACQUISITIONS

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PART 518 - EMERGENCY ACQUISITIONS

518.000 Scope of part.

This part includes—

(a) Supplemental policy to FAR part 18;

(b) Identification of additional acquisition flexibilities available for emergency acquisitions. These additional acquisition flexibilities are not exempt from the requirements and limitations set forth in FAR part 3;

(c) Policy on obtaining acquisition support for emergency acquisitions; and

(d) Resources that are available to the acquisition workforce to support emergency acquisitions.

518.001 Resources.

The following provide information about emergency acquisitions:

(a) Emergency Acquisitions topic page located within the GSA Acquisition Portal at http://insite.gsa.gov/acquisitionportal; and

(b) GSA's Emergency Response website at https://www.gsa.gov/governmentwide-initiatives/emergency-response.

Subpart 518.1 - Available Acquisition Flexibilities

518.101 General.

FAR subpart 18.1 and the GSAM include many acquisition flexibilities that are available to contracting officers and other acquisition personnel when certain conditions are met. These acquisition flexibilities do not require an emergency declaration or designation of contingency operation.

518.170 Additional acquisition flexibilities.

(a) *Waiver of contracting officer certification*. The Senior Procurement Executive (SPE) may waive the requirement for obtaining contracting officer certification (see (b)(2)).

(b) *Deviations, waivers, and exemptions from Contracting Officer Warrant Program (COWP) requirements*. The SPE may approve deviations, waivers, and exemptions from any of the COWP requirements (see (d)(3)(i)(B)).

(c) *Changes in warrant level thresholds*. The SPE may authorize changes in warrant level thresholds (see (d)(3)(i)(D)).

(d) *Waiver of Contracting Officer's Representative (COR) certification*. The SPE may waive the requirements for FAC-COR certifications (see (d)).

(e) *Waiver of Program and Project Managers (P/PM) certification*. The SPE may waive the requirements for FAC-P/PM and FAC-P/PM-IT certification (see (d)).

(f) *Procurement authority delegation waivers*. The SPE may waive the requirement for a delegation of procurement authority to be able to place orders under a GSA multi-agency contract or GSA Governmentwide acquisition contract.

(g) *Temporary appointments*. HCAs may request temporary appointments in accordance with (b)(1). For additional information about temporary appointments refer to the Acquisition Career Management page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

518.171 Additional sources.

In addition to the contracts identified in FAR 18.105, the following sources should also be considered:

(a) GSA's Disaster Relief & Pandemic Products Program aisle available on GSA Advantage at https://www.gsaadvantage.gov.

(b) GSA's Emergency Acquisition Basic Ordering Agreements available at https://www.gsa.gov/governmentwide-initiatives/emergency-response.

Subpart 518.2 - Emergency Acquisition Flexibilities

518.270 SPE authority.

The SPE is delegated the authority to make the head of the agency determinations described in FAR subpart 18.2 (see 502.101), including increasing procurement thresholds.

518.271 Request and notification.

(a) *Request*. Requests to use any of the emergency flexibilities described in FAR subpart 18.2 shall be submitted to the SPE at spe.request@gsa.gov. Requests shall include, at a minimum—

(1) A description of the support to be provided (*e.g.*, there has been an emergency declaration in the HCA's area and they need to provide acquisition support); and

(2) Any other important information.

(b) *Notification*. The SPE will notify the acquisition workforce when use of any of the emergency flexibilities provided in FAR subpart 18.2 is authorized. Notification may be done through the issuance of a SPE memorandum or other method deemed appropriate by the SPE.

518.272 Requirements.

(a) Duration of emergency acquisition flexibilities. Unless otherwise stated in the SPE notification or revoked earlier, emergency acquisition flexibilities authorized by the SPE are automatically rescinded once the effective period of the emergency has ended.

(b) Federal Procurement Data System (FPDS) reporting. When reporting an emergency acquisition contract action within FPDS, contracting officers must choose the appropriate data entry selection available under the Emergency Acquisitions FPDS data field (*e.g.*, selection "C" is used when supporting a presidential issued emergency declaration or a major disaster declaration). Contracting officers also must also include the name of the emergency (*e.g.*, Hurricane Milton) as the first words in the Description of Requirement FPDS data field. The text to be used for the name of the emergency will be included in the SPE notification.

Subpart 518.70 - Emergency Acquisition Support

518.7001 Definitions.

As used in this subpart—

"Emergency Coordinators (EC)" means individuals within GSA who are designated to be responsible for preparedness, response, and recovery phases of incident management. The Office of Mission Assurance (OMA) Associate Administrator is the primary EC for GSA. Additionally, each Head of Service and Staff Office (HSSO) must appoint an EC to handle emergency documents, update their HSSO, and liaise with OMA (see GSA Orders ADM 2430.1A, The U.S. General Services Administration Continuity Program and ADM 2430.3: The U.S. General Services Administration Emergency Management Program or successor orders).

"Requesting Head of the Contracting Activity (HCA)" means the HCA requesting emergency acquisition support.

"Servicing HCA" means the HCA providing emergency acquisition support.

518.7002 General.

HCAs, in conjunction with ECs, may obtain emergency acquisition support (e.g., contract award, contract administration) from across GSA.

518.7003 Requesting HCA responsibilities.

he requesting HCA is responsible for the following:

(a) Determining, in conjunction with ECs, the need for emergency acquisition support. Requesting HCAs should look within their own Service-line (*e.g.*, FAS, PBS, OAS) before reaching outside their respective Service-line.

(b) Requesting needed acquisition support from the servicing HCA. The request shall include, at a minimum, the following:

(1) Time commitment and duration needed.

(2) Description of the acquisition support needed;
(3) Number and type of acquisition personnel (*e.g.*, contracting officer); and
(4) Other key details (*e.g.*, rotation, location requirements).

(c) Overseeing the acquisition personnel provided by the servicing HCA. Requesting HCAs retain contracting oversight over any contracting officer who is supplied by a Servicing HCA.

(d) Ensuring there is documented oversight and internal control processes of contract activities to support emergency acquisitions.

518.7004 Servicing HCA responsibilities.

The Servicing HCA is responsible for the following:

(a) Providing acquisition support for the agreed upon period of time to the Requesting HCA and ensuring volunteers understand that they will report to the Requesting HCA.

(b) Ensuring the acquisition personnel have the necessary certifications and expertise to support the Requesting HCA.

(c) Ensuring the acquisition personnel have knowledge and understanding of emergency acquisition policies under FAR part 18, FAR subpart 26.2, Office of Federal Procurement Policy (OFPP) Emergency Acquisitions Guide, and OMA 2400.2, Events Requiring Notification to the GSA Emergency Operations Center.

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SUBCHAPTER D - SOCIOECONOMIC PROGRAMS

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PART 519 - SMALL BUSINESS PROGRAMS

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PART 519 - SMALL BUSINESS PROGRAMS

519.001 Definitions.

Subpart 519.2 - Policies

519.201 General policy.

(a) The Director of the Small and Disadvantaged Business Utilization is known in GSA as the Associate Administrator, Office of Small and Disadvantaged Business Utilization (AA OSDBU).

(b) The AA OSDBU delegates duties to Small Business Technical Advisors (SBTAs) for each region through written appointment. All references to SBTA in this part refer to the SBTA designated to support his/her service or region, whichever is applicable.

(c) Contracting officers shall work with the designated SBTA for their region or service.

519.202 Specific policies.

519.202-1 Encouraging small business participation in acquisitions.

When applicable, the following procedures shall be used to promote small business through acquisition.

(a) For any acquisition that requires a GSA Form 2689 per GSAM 519.502-70, an acquisition plan shall be submitted to the SBTA. The acquisition plan shall be submitted to the SBTA for approval after the GSA Form 2689 has been approved.

(b) The designated SBTA will provide the copy of the proposed acquisition package to the SBA PCR in accordance with FAR 19.202-1(e) and GSAM 519.4.

(c) When placing orders or establishing BPAs against multiple-award contracts (see FAR 2.101), small businesses should be given consideration prior to large businesses.

519.202-2 Locating small business sources.

(a) Queries using the "Dynamic Small Business Search," at *http://dsbs.sba.gov* are encouraged to locate small business sources.

(b) The designated SBTA may be contacted for assistance with identifying small business sources.

(c) The contracting officer must coordinate communications through the SBTA (see 519.4) when contacting the SBA Procurement Center Representative (PCR) in accordance with FAR 19.202-1.

Subpart 519.3 - Determination of Small Business Status for Small Business Programs

519.302 Protesting a small business representation.

If SBA determines that an offeror is not a small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.305 Protesting a representation of disadvantaged business status.

If SBA determines that an offeror is not a disadvantaged small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.306 Protesting a firm's status as a HUBZone small business concern.

If SBA determines that an offeror is not a HUBZone small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.307 Protesting a firm's status as a Service-Disabled Veteran-Owned small business concern.

If SBA determines that an offeror is not a service-disabled veteran-owned small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.308 Protesting a firm's status as an Economically Disadvantaged Women-Owned Small Business (EDWOSB) concern or Women-Owned Small Business (WOSB)) concern eligible under the WOSB Program.

If SBA determines that an offeror is not a women-owned small business or economically disadvantaged women-owned small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

Subpart 519.4 - Cooperation With the Small Business Administration

The AAOSDBU is the focal point for interfacing with SBA. Refer issues relating to small business programs through the designated SBTA.

Subpart 519.5 - Set-asides for Small Business

519.502 Setting aside acquisitions.

519.502-1 Requirements for setting aside acquisitions.

(a) The contracting officer may make awards under the 8(a) Business Development Program (see FAR 19.8), or set aside for the Historically Underutilized Business Zone (HUB-Zone) Program (see FAR 19.13, Women-Owned Small Business (WOSB) Program (see FAR 19.15), or Service-Disabled Veteran-Owned Small Business (SDVOSB) Procurement Program (see FAR 19.14).

(b) Once a contracting activity acquires a product or service successfully on the basis of a set-aside, the activity must acquire all future requirements for that product or service using set-aside procedures. If the contracting officer determines that he or she no longer can reasonably expect to receive offers from at least two responsible small business concerns and make awards at fair market prices, use the procedures in FAR 19.506 to withdraw or modify a set-aside. When market research reveals that any supplies or services from mandatory sources, such as Federal Prison Industries, Inc. and AbilityOne, that were not available at the time of the original requirement have become available, a contracting officer may discontinue setting aside a continuing requirement (see FAR 8.002 and 8.003). The contracting officer shall document the determination to discontinue setting aside a continuing requirement (see 519.502-70).

519.502-70 Review of non-set-aside determinations.

(a) *General*. GSA Form 2689, Small Business Analysis Record.

(1) The GSA Form 2689 is used to–

(i) Record evidence that consideration has been given to small business, service-disabled veteran-owned small business, HUB-Zone small business, small disadvantaged business, women-owned small business, or 8(a) Business Development Program participants; and

(ii) Document that small businesses received maximum practicable opportunity to participate in a proposed acquisition.

(2) The GSA Form 2689 may be used in place of a "Memo to File" when documenting the requirement for market research and as a tool to assure maximum practicable small business opportunity.

(3) The contracting officer shall include all pertinent documents with the GSA Form 2689 to support the proposed acquisition strategy (*i.e.*, Dynamic Small Business Search results, responses to System for Award Management Contract Opportunities sources sought notice, performance work statement, statement of work, sole source justification, consolidation or bundling determination, business case, etc.).

(4) The contracting officer shall record the justification and rationale for the determined acquisition strategy on the GSA Form 2689.

(b) *Consolidated or Bundled Acquisitions*. The GSA Form 2689 is required for acquisitions when consolidation, bundling or substantial bundling (FAR 2.101 and 7.107-4) is contemplated regardless of estimated total contract value.

(c) *Orders*.

(1) The GSA Form 2689 is required for orders and Blanket Purchase Agreements (BPAs), including BPA orders, against Multiple-award Contracts (see FAR 2.101) and expected to equal or exceed $6 million (see FAR 7.104(d)), unless the contract, order or BPA is set aside for one of the small business programs specified in FAR 19.203 (e.g. 8(a), HUB-Zone, WOSB, or SDVOSB).

(2) Orders or BPAs against Multiple-award Contracts (see FAR 2.101) that are less than $6 million do not require a GSA Form 2689, unless the acquisition is consolidation, bundling or substantial bundling.

(d) *Acquisitions at or below the Simplified Acquisition Threshold (SAT)*.

(1) The GSA Form 2689 is not required for acquisitions at or below the SAT, unless the acquisition is consolidation, bundling or substantial bundling. However, it may be used to document market research. Contracting officers are encouraged to use the GSA Form 2689 to document any determination to not use small business under the SAT in accordance with FAR 19.502-2(a).

(2) The GSA Form 2689 does not require SBTA or SBA PCR review or signature when documenting market research.

(e) *Acquisitions expected to exceed the Simplified Acquisition Threshold (SAT)*. The GSA Form 2689 is required for acquisitions expected to exceed the SAT when—

(1) A determination is made to set aside for small business but not one of the small business programs specified in FAR 19.203 (8(a), HUB-Zone, WOSB, or SDVOSB); or

(2) A determination is made to utilize full and open competition.

(f) *Exceptions*. The GSA Form 2689 is not required for—

(1) Acquisitions with mandatory sources (see FAR 8.002 and 8.003);

(2) Acquisitions, including contracts, orders, and BPAs, that have been set aside for a small business program specified in FAR 19.203 (*e.g.* 8(a), HUB-Zone, WOSB, or SDVOSB) unless consolidated, bundled or substantially bundled; or

(3) Orders or BPAs under $6 million, unless consolidated, bundled or substantially bundled (see paragraphs (b) and (c) of this subsection).

(g) *GSA Form 2689 Requirement Conditions*.

(1) *General*. The following table is a reference to determine when the GSA Form 2689 is required for completion and submission.

(2) *Instructions*. The table has an order of precedence.

(i) Review the "Contract Vehicle Conditions" column in numerical order.

(ii) Once a condition applies to the acquisition, the applicability of the form will be identified in the "GSA Form 2689 Required?" column.

(iii) Once a condition applies to the acquisition, further conditions down the table do not apply.

Contract Vehicle Conditions	GSA Form 2689 Required?	Rationale
(A) Any acquisition from mandatory sources	Not Required	GSAM 519.502-70(f)(1) Mandatory Sources FAR 8.002(a)(1)(iv) (Supplies) FAR 8.002(a)(2)(i) (Services) FAR 8.003
(B) Acquisitions, including contracts or orders that meet the definition of consolidation, bundling or substantial bundling (FAR 2.101 and 7.107-4).	Required at any estimated total contract value	GSAM 519.502-70(b)
(C) Acquisitions, including contracts, orders and BPAs, that have been set aside for a small business program as specified in FAR 19.203 (e.g. 8(a), HUB-Zone, WOSB, or SDVOSB)	Not Required	GSAM 519.502-70(f)(2)

Contract Vehicle Conditions	GSA Form 2689 Required?	Rationale
(D) Orders and BPAs, including BPA call orders, against Multiple-Award contracts (see FAR 2.101)	Required if valued at $6M or more, unless set-aside for small business programs as specified in FAR 19.203 (e.g. 8(a), HUB-Zone, WOSB, or SDVOSB) Not Required if under $6M	GSAM 519.502-70(c) Set-aside is discretionary FAR 8.405-5(a) FAR 16.505(b)(2)(i)(F)
(E) Contracts under the SAT	Not Required but encouraged to use the form as a market research tool	GSAM 519.502-70(d)
(F) Contracts over the SAT and set-aside for 8(a), HUB-Zone, WOSB, or SDVOSB	Not Required	GSAM 519.502-70(f)(2) FAR 19.203(a)
(G) Contracts over the SAT and set aside for small business, but NOT set-aside for 8(a), HUB-Zone, WOSB, or SDVOSB	Required	GSAM 519.502-70(e)(1) FAR 19.203(c)
(H) Contracts over the SAT and not set-aside (*i.e.* full and open competition	Required	GSAM 519.502-70(e)(2)

(h) *GSA Form 2689 Concurrence and Time-frames*.

(1) Use the guidance in paragraphs (c) through (g) to determine if a GSA Form 2689 is required. If a GSA Form 2689 is required, then follow the dollar value thresholds in the table below to determine the level of concurrence for the form.

Thresholds	SBTA Concurrence	SBA PCR Concurrence	AA OSDBU Concurrence	Review Time-frame
Less than SAT	Not Required, unless an exception in 519.502-70(h)(2) applies	Not Required, unless an exception in 519.502-70(h)(2) applies	Not Required, unless an exception in 519.502-70(h)(2) applies	Not Applicable
Equal to or greater than SAT and less than $50M	Required	Required	Not Required, unless an exception in 519.502-70(h)(2) applies	Within 5 business days following the day of receipt
Equal to or greater than $50M	Required	Required	Required	Within 10 business days following the day of receipt (i.e. 5 business days total for the SBTA and SBA PCR and 5 business days for AA OSDBU)

(2) If the acquisition meets one of the following criteria, the contracting officer must obtain all concurrences of the GSA Form 2689 regardless of the concurrence threshold:

(i) Complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.

(ii) Acquisitions that will be performed in more than one region.

(3) The SBTA is responsible to follow-up with the SBA PCR and inform the contracting officer.

(4) The SBTA must request from the contracting officer an extension if concurrence will not be met by the established time-frame as defined above in the table.

(5) If a response is not received from the SBA PCR, the SBTA must elevate within OSDBU for resolution at osdbu_review_concurrence@gsa.gov.

(6) If the contracting officer does not receive a response from the SBTA within the established time-frames and the SBTA has been unresponsive to the contracting officer's inquiries, the contracting officer should elevate within OSDBU for resolution at osdbu_review_concurrence@gsa.gov.

(7) If a "Non-Concur" is received on the GSA Form 2689, the contracting officer is required to re-submit for concurrence. The time-frame for review is reset when the form is re-submitted.

(i) Disagreements. If a reviewing official disagrees with the contracting officer's decision not to set aside an acquisition, the SBTA must provide the contracting officer the rationale for the disagreement or provide the contracting officer with additional small business sources that are interested in and capable of fulfilling the requirement. Review and consider any information provided by the SBTA before making a decision.

(j) Resolving disagreements. The HCA (see GSAM 502.101), as delegated, in the applicable Central Office and/or Regional Service resolves disagreements between the contracting officer and the SBTA. To resolve disagreements with the SBA PCR, see FAR 19.505.

519.503 Setting aside a class of acquisitions for small business.

(a) *Definition*. A class set-aside is an item (or service), a group of related items under a Federal Supply Class (FSC), or a whole FSC set aside for exclusive small business participation on more than a one-time basis. If the item or group of items constitute only a small portion of an FSC, this definition still applies.

(b) *Determinations*. If the contracting officer has procurement responsibility for the class of items or services involved, prepare the determination required by FAR 19.503. The determination can apply to either a total or partial set-aside.

519.506 Withdrawing or modifying small business set-asides.

If the contracting officer and the SBTA disagree over the withdrawal or modification of a set-aside, the SBTA must notify the AA OSDBU at the same time the matter is referred to the SBA PCR.

519.507 Contract clause.

Insert the clause at 552.219-70, Allocation of Orders—Partially Set-Aside Items, in solicitations and contracts when a requirements contract for supplies is contemplated that will involve partially setting aside orders for small business.

Subpart 519.6 - Certificates of Competency and Determinations of Responsibility

519.602 Procedures.

519.602-3 Resolving differences between the agency and the Small Business Administration.

(a) Within 5 business days after requesting the SBA Area Office to refer an intention to issue a Certificate of Competency to SBA Headquarters for review, the contracting officer shall forward the information in paragraphs (a)(1) and (a)(2) of this subsection to the AA OSDBU through your designated SBTA. This period may be extended by mutual agreement.

(1) Copies of all correspondence between GSA and SBA concerning the case. Include the initial referral notice of nonresponsibility.

(2) Copies of all technical documents sent to SBA (for example, the solicitation, preaward surveys, or any abstract of offers). Include any new information and a justification of the contracting officer's decision to continue the appeal.

(b) After considering all the facts and conferring with the contracting officer, the AA OSDBU will decide whether or not to file a formal appeal. Before deciding whether or not to appeal, the AA OSDBU must notify the contracting officer.

(c) For decisions on cases over $25,000,000, the AA OSDBU shall confer with the contracting activity before responding to SBA regarding either of the options in FAR 19.602-3(b)(1)(i) and (ii).

Subpart 519.7 - The Small Business Subcontracting Program

519.702 [Reserved]

519.704 Subcontracting plan requirements.

(a) *Subcontracting plan goals for individual and commercial subcontracting plans*. Subcontracting plans for GSA acquisitions must identify subcontracting goals in terms of total subcontract dollars planned and percentages of total subcontract dollars planned for each category (e.g., other than small business, small business, women owned small business). However, it is not required to list goals as a percentage of total contract value for GSA acquisitions.

Master plans. Master plans (see FAR 19.701 and 19.704(b)) are separate from commercial plans and individual plans, and do not contain subcontracting goals. As such, offerors may use a master plan in developing an individual subcontracting plan, but an individual plan must still be submitted specific to the contract. (b)

519.705 Responsibilities of the contracting officer under the subcontracting assistance program.

519.705-1 General.

In addition to FAR 19.705 responsibilities, the contracting officer is responsible for negotiating subcontracting goals when necessary to ensure the plan reflects maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses to participate as subcontractors to the fullest extent. This negotiation does not constitute discussions per FAR 15.306.

519.705-2 Determining the need for a subcontracting plan.

(a) *Total value*. Use the actual or estimated value of the contract for the entire term of the contract, including all options. For Multiple Award Schedule contracts and other indefinite delivery type contracts, calculate the estimated value of all orders expected to be placed during the term plus all options.

(b) *Determination of no subcontracting possibilities.* If the contracting officer determines that an apparent successful offeror's proposal has no subcontracting opportunities:

(1) *Written determination*. Prepare a written determination supporting the rationale that no subcontracting opportunities exist. Attach a copy of the justification provided by the apparent successful offeror.

(2) *AA OSDBU review.* Obtain AA OSDBU concurrence on the determination prior to contract award. Coordinate the concurrence through the GSA SBTA.

(3) *Non-concur*. If a "Non-Concur" is received on the determination, the contracting officer is required to re-submit for concurrence. The time-frame for review is reset when the determination is re-submitted (see 519.705-4).

(4) *Disagreements*. If the AA OSDBU disagrees with the contracting officer's determination that an apparent successful offeror's proposal has no subcontracting possibilities, the GSA SBTA will provide the contracting officer the rationale for the disagreement. The contracting officer must review and consider any information provided by the GSA SBTA before re-submitting.

(5) *Resolving disagreements*. The HCA or their designee resolves disagreements between the contracting officer and AA OSDBU.

519.705-3 Preparing the solicitation.

(a) Model subcontracting plan. Contracting officers are encouraged to include GSA's Model Subcontracting Plans, available on the OSDBU subcontracting page at https://insite.gsa.gov/subcontracting, in solicitations to facilitate preparation of subcontracting plans.

(b) Subcontracting goals. Contracting officers shall not tell offerors what a contract's subcontracting goals should be. The contracting officer may share historical data, Government-wide statutory goals or GSA's agency goals as a guide to industry. However, a contract's subcontracting goals must reflect maximum practicable opportunities for the acquisition as required by FAR 19.702.

(c) Small business consideration. For a negotiated acquisition, if the contracting officer believes that the acquisition provides substantial subcontracting opportunities, the contracting officer should consider including a small business

participation evaluation factor (see 515.304). The contracting officer may consult with the GSA SBTA to obtain any needed assistance with developing small business participation evaluation criteria.

(d) Any solicitation requiring a subcontracting plan must be reviewed internally by the appropriate GSA SBTA prior to submission to the SBA PCR, as required by FAR 19.705-3. Additionally, COs are reminded that the GSA SBTA will coordinate communications with SBA and will submit the solicitation to the SBA PCR, in accordance with subpart 519.4. A reasonable timeframe for GSA SBTA and SBA PCR review is typically 10 business days combined.

519.705-4 Reviewing the subcontracting plan.

(a) *Standards*.

(1) The contracting officer shall review the subcontracting plan using the tools found on the OSDBU subcontracting page at https://insite.gsa.gov/subcontracting.

(2) Commercial plans approved by another Government contracting officer (see FAR 19.704(d)) do not require further review by the contracting officer, GSA SBTA or the SBA PCR. The approved commercial plan must be incorporated into the contract.

(b) *Subcontracting sources*. When reviewing subcontracting plans, contracting officers should ensure the contractor made a good faith effort in finding small businesses to meet their subcontracting goals, such as:

(1) Dynamic Small Business Search (DSBS) (http://dsbs.sba.gov), managed by the Small Business Administration (SBA).

(2) Local SBA Offices (https://www.sba.gov/federal-contracting/counseling-help/commercial-market-representatives). These offices provide offerors assistance in accessing the System for Award Management (SAM) database to conduct market research and confirm the eligibility for SBA's procurement preference programs.

(3) APEX Accelerators (formerly known as Procurement Technical Assistance Centers (PTACs)) (https://www.apexaccelerators.us/#/), administered by the Department of Defense (DoD)

(4) Minority Business Development Agency (MBDA) (https://www.mbda.gov/mbda-programs/business-centers), part of the Department of Commerce.

(5) State, county, and city government minority business offices.

(6) Local chambers of commerce.

(7) Small, minority, women-owned, and veteran business associations.

(8) Trade associations, and professional organizations.

(c) *Subcontracting past performance.* The contracting officer must consider the contractor's performance under other active or completed contracts as an indicator of an offeror's understanding of the statutory requirements expressed in FAR 52.219-8. This information may be utilized in negotiating goals that maximize opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses.

(1) If an offeror prepared a subcontracting plan for another contract, the contracting officer should contact the contracting officer responsible for administering the earlier plan to determine if the offeror met the plan's objectives and submitted required reports in a timely manner.

(2) The contracting officer shall consider overall compliance (e.g., timely submittal of reports, making a good faith effort to meet subcontracting goals). Actions taken in accordance with the plan mean more than whether or not the offeror met the goals established in the plan. Contractors are required to make a good faith effort. Good faith effort is further addressed in FAR 19.705-7.

(3) Submission of timely and accurate reports is an indication a contractor takes its small business subcontracting responsibilities seriously. The contracting officer should check reports filed in eSRS if a contractor holds GSA contracts. The *Remarks* section of past reports should be examined for any new or enhanced actions for low or zero dollars for small businesses. The contracting officer should engage with the contractor if no growth is achieved.

(d) *Review Documentation*. The contracting officer shall document review of a subcontracting plan by using the Subcontracting Plan Review Checklist (GSA Form 4006). The subcontracting plan and the checklist shall be submitted to the GSA SBTA after the contracting officer has documented their review. The GSA SBTA will coordinate with the SBA PCR.

(e) *Engagement with OSDBU*. The contracting officer should engage the GSA SBTA early in the procurement process, especially for procurements that are complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.

(1) When reviewing the subcontracting plan, contracting officers shall use the document entitled "GSA Subcontracting Plan Review Checklist (GSA Form 4006)." The document is available on the OSDBU subcontracting page at https://insite.gsa.gov/subcontracting.

(2) The contracting officer shall submit subcontracting plan(s) to the GSA SBTA who will coordinate the required review with the SBA PCR.

(3) Once apparent awardee is known, the GSA SBTA and SBA PCR generally has 5 business days to review subcontracting plans. AA OSDBU has 10 business days to review subcontracting plans for acquisitions that meet any of the conditions listed below. Leases of real property and multiple award schedules do not require AA OSDBU review.

(i) Contract performance will occur for two or more contracting activities/regions and the estimated value of the acquisition exceeds $50 million, including options.

(ii) The contract will be used by more than one Federal agency and the estimated total value of the acquisition exceeds $50 million, including options.

(iii) Based on political sensitivity or importance to GSA, the AA OSDBU designates the procurement for review.

(4) The contracting officer shall consider any recommendations the GSA SBTA, SBA PCR, or AA OSDBU provides about the subcontracting plan. The contracting officer must also document the contract file with the final decision, especially including justification for any recommendation not adopted.

(5) If the contracting officer does not receive comments from OSDBU within the timelines in (e)(3), the contracting officer shall document the contract file and continue with the award process (see FAR 19.705-5(a)(3)).

Revising subcontracting plans. Unlike the small business participation evaluation factor described in 515.304, apparent successful offerors may submit revised subcontracting plans, when requested by the contracting officer, before award without such exchanges constituting discussions (see FAR 15.306). Acceptability of subcontracting plans relate to the apparent successful offeror's responsibility and exchanges related to such subcontracting plans are not considered discussions.(f)

519.705-6 Postaward responsibilities of the contracting officer.

(a) If multiple contracting officers are responsible for contract administration (e.g., ACO and PCO), the responsibilities outlined in FAR 19.705-6 must be clearly documented (e.g., in the contract administration plan).

(b) *Subcontracting plan reports*.

(1) Contracting officers are responsible for ensuring the contractors submit timely and accurate reports in the electronic Subcontract Reporting System (eSRS) and ensuring the contractor submitted the correct type of report(s) for the type of subcontracting plan in the contract. Failing to submit reports may indicate a lack of a good faith effort.

(2) Examples of what to look for when reviewing commercial and/or individual subcontracting plan reports can be found on the OSDBU subcontracting page at https://insite.gsa.gov/subcontracting.

Real property Lessors shall use the Standard Form (SF) 294 instead of the ISR in eSRS to report subcontracting achievements. Use of the SF-294 by contractors to report cumulative subcontracting achievement under a GSA contract should be rare.(3)

(c) *Small business participation compliance*. If a small business participation factor is utilized for evaluation (see 515.304), it should be monitored as part of contract administration.

(d) *Re-representation*. While re-representation does not apply to acquisitions for leasehold interest in real property, leasing contracting officers may consider obtaining a subcontracting plan from other than small business lessors as a result of novations or mergers.

519.705-7 Compliance with the subcontracting plan.

(a) *Good faith effort notifications* . Contracting officers shall provide the GSA SBTA a copy of any written notice to a contractor that the contractor did not make a good faith effort to comply with the subcontracting plan. Contracting officers shall engage the Office of the General Counsel before issuing a final decision to assess liquidated damages.

Final decision. The contracting officer shall provide the GSA SBTA a copy of the contracting officer's final decision assessing liquidated damages. In addition to the requirements at FAR 19.705-7, the final decision letter shall include:

(1) A description of the contractor's failure.

(2) Reference to the appropriate contract terms.

(3) A statement of the factual areas of agreement and disagreement.

(4) A statement of the contracting officer's decision with supporting rationale.

(5) A demand for liquidated damages.
(6) An explanation of the contractor's appeal rights under the Disputes clause.

(b) *Funds withheld from payments*. If funds to collect liquidated damages are withheld from payments due, the funds may be returned to the applicable GSA account along with other funds that were obligated but not expended. If a commercial plan is involved, or if all payments have been made under a contract with an individual contract plan, instruct the contractor to submit a check to GSA. The GSA Office of Finance will transfer the funds to the Treasury Department for deposit in the general receipts account.

519.706 Responsibilities of the cognizant administrative contracting officer.

(a) If a contracting officer, or administrative contracting officer (ACO), administers a contract with an individual subcontracting plan, that contracting officer must also monitor receipt of and accept or reject the required reports in eSRS. Reasons for any report rejections must be recorded in eSRS to prevent recurring errors. Contracting officers must ensure contractors submit revised reports within 30 days of rejection as required by FAR 52.219-9(l).

(b) Contracting officers are responsible for ensuring required subcontracting reports are submitted timely and accurately. Any shortcomings in timeliness or quality should be noted in the contract file and any past performance evaluation.

(c) The contractor must explain any subcontracting plan shortfalls and submit evidence of its efforts to locate and provide subcontracting opportunities to small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses.

(d) Contracting officers must contact the contractor within 30 days of any failure to submit required subcontracting report(s) by the due dates established in FAR 52.219-9(l), and request immediate submission. Contracting officers must notify contractors that failure to submit reports may be considered a lack of good faith effort and may result in assessment of liquidated damages or may be considered in any past performance evaluation of the contractor.

Subpart 519.8 - Contracting With the Small Business Administration (The 8(a)Program)

519.803 Selecting acquisitions for the 8(a) program.

519.803-70 Contracting officer evaluation of recommendations for 8(a) set-aside(s).

(a) If the contracting officer disagrees with a recommendation by the AA OSDBU or the SBTA to set aside a procurement for award under the 8(a) program, discuss the matter with the official who made the recommendation.

(b) If the contracting officer decides not to award the contract under the 8(a)program, forward a copy of the documentation required by FAR 19.202-1(e)(4) to the SBTA within 10 working days.

(c) Once a contracting activity acquires a product or service successfully on the basis of an 8(a) set-aside, the activity must acquire all future requirements for that product or service using 8(a) set-aside procedures.

(1) However, the availability of Federal Prison Industries, Inc. and Nonprofit Agencies Employing People Who Are Blind or Severely Disabled (AbilityOne), and other mandatory sources, which may not have existed at the time of the original requirement are sufficient reason to discontinue setting aside a continuing requirement.

(2) If the contracting officer determines that acquiring the product or service as an 8(a)set-aside is no longer in the Government's best interest, use the procedures in FAR 19.506 to withdraw a repetitive set-aside.

519.803-71 Withdrawing or modifying 8(a) set-asides.

If the contracting officer and the SBTA disagree over the withdrawal or modification of a set-aside, the SBTA must notify the AA OSDBU at the same time the matter is referred to the SBA PCR.

519.870 Direct 8(a)contracting.

519.870-1 Authority and applicability.

(a) In accordance with FAR 19.800(f), GSA obtained a delegation from SBA permitting direct 8(a) contracting as documented through GSA's Partnership Agreement. The current Partnership Agreement can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(b) This authority applies to all 8(a)acquisitions conducted by GSA. It does not apply to the multiple award schedule program.

519.870-2 Contract clauses.

(a) Insert the following clauses in solicitations, contracts, and orders in accordance with the provisions of Section 8(a) of the U.S. Small Business Administration Act as implemented by FAR subpart 19.8 and GSA's 8(a) Partnership Agreement:

(1) 552.219-74 Section8(a)Direct Award., Section 8(a) Direct Award;

(2) FAR 52.219-14, Limitations on Subcontracting; and

(3) FAR Deviation. 552.219-18 Notification of Competition Limited to Eligible 8(a) Participants (DEVIATION FAR 52.219-18)., Notification of Competition Limited to Eligible 8(a) Participants. GSA has a FAR Deviation that allows the use of clause 552.219-18 Notification of Competition Limited to Eligible 8(a) Participants (DEVIATION FAR 52.219-18). in lieu of the FAR clause at 52.219-18.

(b) Do not insert the following clauses in solicitations, contracts, and orders in accordance with the provisions of Section 8(a) of the U.S. Small Business Administration Act as implemented by FAR subpart 19.8 and GSA's 8(a) Partnership Agreement:

(1) FAR 52.219-11, Special 8(a) Contract Conditions;

(2) FAR 52.219-12, Special 8(a) Subcontract Conditions; and

(3) FAR 52.219-17, Section 8(a) Award.

Subpart 519.10 - [Reserved]

Subpart 519.11 - [Reserved]

Subpart 519.12 - [Reserved]

Subpart 519.13 - [Reserved]

Subpart 519.14 - [Reserved]

PART 520 [RESERVED]

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PART 521 [RESERVED]

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PART 522 - APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 522.1 - Basic Labor Policies

522.101 Labor relations.

522.101-1 General.

The Office of General Counsel (OGC) and the agency labor advisor shall—

(a) Serve as the GSA points of contact on all contractor labor relations matters;

(b) Initiate contact on contractor labor relations matters with national offices of labor organizations, Government departments, agencies or other governmental organizations. Contracting offices shall notify OGC and the agency labor advisor when they are contacted by such external organizations;

(c) Serve as a clearinghouse for information on labor laws applicable to Government acquisitions; and

(d) Respond to questions involving FAR 22, Application of Labor Laws to Government Acquisitions, or other contractor labor relations matters concerning GSA acquisition programs. OGC determines the agency's legal position.

522.101-3 Reporting labor disputes.

Written reports of contractor labor disputes shall be submitted to the agency labor advisor as soon as the circumstances surrounding a labor dispute are identified. Include in the report a description of the following: the nature of the labor dispute; location of the dispute and contracts affected; the potential or actual impact of the dispute on GSA operations or programs; and any actions taken to reduce the impact. The agency labor advisor will notify other GSA contracting offices that may be affected, and will determine further actions to be taken.

522.103 Overtime.

522.103-4 Approvals.

The contracting officer is the "agency approving official" under FAR 22.103-4.

522.103-5 Contract clauses.

Insert the FAR clause at 52.222-1 in solicitations and contracts for DX rated orders under the Defense Priorities and Allocations System (see FAR subpart 11.6)

Subpart 522.3 - Contract Work Hours and Safety Standards Act

522.302 Liquidated damages and overtime pay.

(a) *Contracting officer's responsibilities*. (1) Provide instructions to the appropriate Finance Office whether to withhold funds from contract payments pending final administrative determination.

(2) Notify the Finance Office of your final decision to assess liquidated damages.

(3) After final decision, provide instructions to either immediately release to the contractor any funds in excess of the amount specified in your decision or initiate the collection of additional funds (see paragraph (c) of this section).

(4) Advise the contractor in writing of any decision to withhold funds, including the reasons for the withholding, and the amount held to satisfy the contractor's liability for unpaid wages and liquidated damages. Coordinate all written communications with the contractor, including the notification of dispute resolution procedures under the Department of Labor's regulations at 29 CFR Parts 4 through 8, with the Office of Regional Counsel.

(b) *Procedures for the collection of liquidated damages*. (1) Initiate collection action by either:

(i) Withholding funds from payments due on the contract.

(ii) Issuing a demand for payment, if no funds were withheld or the amount withheld was less than the liquidated damages.

(2) Indicate in the demand letter the intent to offset from the contractor's other Government contracts if payment is not made.

(3) Provide the Finance Office with a:

(i) Copy of the demand letter.

(ii) Request that it initiate collection action under 41 CFR 105-55, Collection of Claims Owed the United States, if payment is not made in accordance with the demand letter.

(c) Review 502.101, to determine who the agency head is for purposes of FAR 22.302(c) (Chapters 13(2)(f) and 17(5)(a)).

Subpart 522.4 - Labor Standards for Contracts Involving Construction

522.404 Construction Wage Rate Requirements wage determinations.

522.404-6 Modifications of wage determinations.

The contracting director shall serve as the agency head for purposes of requesting extensions under FAR 22.404-6(b)(6).

522.406 Administration and enforcement.

522.406-6 Payrolls and statements.

Weekly payrolls and statements of compliance with respect to payment of wages are not required from a prime contractor or a subcontractor that personally performs work.

522.406-7 [Reserved]

522.406-8 Investigations.

(a) If a compliance check uncovers information of possible violations, the contracting officer shall consult with OGC and, if warranted, submit a request to the appropriate Office of the Inspector General Field Office under FAR 22.406-8(a).

(b) The contracting officer shall review 502.101, to determine who the agency head is for purposes of FAR 22.406-8(d).

522.406-9 Withholding from or suspension of contract payments.

Contracting officers shall follow the procedures in 522.302 in order to assess liquidated damages.

522.406-10 Disposition of disputes concerning construction contract labor standards enforcement.

Submit the information required by FAR 22.406-10(d) to the Administrator, Wage and Hour Division, Department of Labor and submit a copy to the agency labor advisor.

522.406-11 Contract terminations.

When a contract or subcontract is terminated for labor standards violations, the contracting officer shall submit the report required by FAR 22.406-11 to the Administrator, Wage and Hour Division, Department of Labor and submit a copy to the agency labor advisor.

522.406-13 Semiannual enforcement reports.

(a) PBS and FAS shall report through the Commissioners the semiannual enforcement reports required by FAR 22.406-13, in the format described in paragraph (d) of this section. The Commissioner will consolidate the regional and central office information and submit the report to the agency labor advisor, Office of Acquisition Policy. The report must identify the service submitting the report and the name, phone number, and email address of the official responsible for preparing the report.

(b) Central Office Contracting Offices outside of FAS and PBS must submit the reports directly to the agency labor advisor. Each report must identify the contracting office and the name, phone number, and e-mail address of the official responsible for preparing the report.

(c) The reports from the FAS and PBS and Central Office Contracting Offices must be submitted to the agency labor advisor within 15 calendar days after the end of the reporting periods. The ALA will consolidate the reports and submit an official agency report to the:

U.S. Department of Labor (DOL)

Wage and Hour Division
Office of Enforcement Policy
Government Contracts Team
Room S3018
200 Constitution Avenue, N.W.
Washington, DC 20210
E-Mail Address: *osp@fenix2.dol-esa.gov*.

(d) The official agency report shall include only the compliance or enforcement of the labor standards requirements for the time periods specified in FAR 22.406-13, and identify the responsible agency official, title, address, phone number, and email address. The report shall be submitted to DOL within 30 calendar days after the end of the reporting periods using the following instructions and format:

SEMI-ANNUAL ENFORCEMENT REPORT

FY ____

1. Enter the beginning and ending dates of the period covered by the semiannual report. _____

2. Enter the total number of prime contracts awarded subject to Construction Wage Rate Requirements statute or the Contract Work Hours and Safety Standards Act awarded during the period covered by this report. _____

3. Enter the total dollar value of the contracts listed on line 2. _____

4. Enter the total number of contractors/subcontractors against whom complaints were received. _____

5. Enter the total number of investigations completed. _____

6. Enter the total number of contractors/subcontractors found in violation as a result of the investigations reported on line 5. _____

7. Enter the total amount of back wages determined due employees by contractors/subcontractors under the:
a) Construction Wage Rate Requirements statute (prevailing wage violations). _____
b) Contract Work Hours and Safety Standards Act (overtime violations). _____

8. Enter the total amount of back wages paid employees by contractors/subcontractors reported on line 6, for the:
a) Construction Wage Rate Requirements statute (prevailing wage violations). _____
b) Contract Work Hours and Safety Standards Act (overtime violations). _____

9. Enter the total number of employees paid wage restitution as reported on line 8, under the Construction Wage Rate Requirements statute and/or Contract Work Hours and Safety Standards Act. _____

10. Enter the amount of liquidated damages assessed as a result of violations under the Contract Work Hours and Safety Standards Act. _____

Remarks: (Enter any explanation or comment considered necessary for proper understanding of the report.)

Subpart 522.5 - Use of Project Labor Agreements for Federal Construction Projects

522.501 Scope of subpart.

GSA's contracting officers must require the use of project labor agreements (PLAs) in accordance with FAR 22.5, unless an exception has been granted by the Senior Procurement Executive (SPE). This subpart -

(a) Provides general policies regarding PLAs;

(b) Prescribes the policy and procedures for implementing exceptions to the PLA requirement; and

(c) Provides detailed procedures for reporting the use of PLAs and the exceptions granted for PLAs, as required by the Office of Management and Budget (OMB)

522.505 Solicitation provision and contract clause.

(a) *PLA submission timing alternates*.

(1) Contracting activities are encouraged to review FAR provision 52.222-33 and its alternates to determine which one is appropriate for the particular project. Pursuant to FAR 22.505, the contracting officer may require submission of the PLA by all offerors, by the apparent successful offeror prior to award, or by the awardee after contract award. The contracting officer's decision may be influenced by time constraints on contract award, the project delivery method, or the experience of the potential offerors with PLAs.

(2) Contracting activities should consider the benefits of using the alternate clauses, the effect on contract award and contract performance.

(3) Contracting activities must decide when and what PLA documentation is required for the procurement and identify the requirements in the solicitation. For each acquisition with a mandatory PLA, contracting activities need to decide whether to require offerors to-

(i) Submit the fully signed PLA or draft PLA with the offer submission;

(ii) Submit the fully signed PLA from only the apparent successful offeror, prior to contract award; or

(iii) Submit the fully signed PLA after the contract is awarded (e.g., 30/60/90 days after award of the contract or prior to the construction start notice to proceed).

(b) *Synopsis*. For procurements that use PLAs, contracting activities shall include language that identifies the solicitation as a PLA project. Sample language can be found on the Project Labor Agreement topic page of the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

522.570 Additional requirements for acquisitions involving project labor agreements.

522.570-1 General.

Resources for project labor agreements can be found on the Project Labor Agreement topic page of the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(a) *Applicability.*

(1) *General*. Contracting officers must determine if the requirement is considered a large-scale construction project (see FAR 22.502). If it is, require the use of a project labor agreement unless the SPE grants an exception listed in FAR 22.504(d)(1).

(2) Indefinite-Delivery, Indefinite-Quantity (IDIQ) Contracts for Construction. Requests for an exception from the FAR requirement (see FAR 22.504(d)(3)) to apply to all orders under a particular IDIQ shall be submitted to the SPE at a level no lower than the Assistant Commissioner for the PBS Office of Acquisitions.

(b) *Process for Requesting Exceptions.*

Contracting officers shall obtain approvals for exceptions to using PLAs on large-scale construction projects from the SPE by following the steps found on the Project Labor Agreement topic page of the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

(c) *Reporting*.

(1) For large-scale construction projects, the contracting officer must report information to the Office of Government-wide Policy (OGP) as follows:

(i) For projects granted an exception by the SPE, within one day of the time of solicitation issuance; or

(ii) For contracts and orders awarded with PLA requirement, within one day of the time of award.

(2) Contracting officers must use the reporting documents provided on the Project Labor Agreement topic page of the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal to provide the information.

522.570-2 Notifications.

(a) *Notification to OMB of GSA PLA usage and exceptions.* OGP will:

(1) Collect data on the number of GSA contracts awarded using PLAs, as required by OMB guidance, through the use of trackers and adhoc reports from SAM.gov as required by OMB guidance.

(2) Collect data on exceptions granted by the SPE as required by OMB guidance.
(3) Complete OMB reporting requirements on a transactional basis for all:
(i) Exceptions granted within three (3) business days of issuance of the solicitation, and
(ii) Contracts and orders awarded with PLA requirements within three (3) business days of contract award to MBX.OMB.OFPPv2@OMB.eop.gov

(b) *Public Posting.* GSA and OMB will post all agency exceptions and use of PLA reports on the Acquisition Gateway at https://acquisitiongateway.gov/additional-resources/resources/5014.

Subpart 522.6 - Walsh-Healey Public Contracts Act

522.608 Procedures.

Before notifying or furnishing information to DOL under FAR 22.608(b), coordinate with legal counsel.

Subpart 522.8 - Equal Employment Opportunity

522.803 Responsibilities.

Contracting officers should submit questions on the applicability of EO 11246 and implementing regulations to assigned legal counsel.

522.804 Affirmative action programs.

522.804-1 Nonconstruction.

(a) The requirements of FAR 22.804 also apply to each contractor and subcontractor with 50 or more employees that either:
(1) Serves as a depository of Government funds; or
(2) Is a financial institution serving as an issuing and paying agent for U.S. savings bonds and savings notes.

(b) The contractors, subcontractors, and financial institutions described in 522.804-1(a) must develop a written affirmative action compliance program for each of its establishments regardless of the contract or holding value, in accordance with 41 CFR 60-1.40.

522.804-2 Construction.

Construction contractors and subcontractors are required to set trade participation goals for minorities and women based on percentages established by the Director, Office of Federal Contract Compliance Programs (OFCCP), Department of Labor. The goals can be found on OFCCP's website at https://www.dol.gov/agencies/ofccp/construction.

522.805 Procedures.

(a) To determine whether the contract meets the threshold in FAR 22.805(a), contracting officers shall include the value of the basic contract plus priced options. A contract modification exercising a priced option is not a contract award under FAR 22.805(a)(1)(ii) and does not require a preaward clearance.

(b) Contracting officers shall submit preaward clearance requests directly to the appropriate OFCCP regional office. A list of OFCCP regional offices can be found on OFCCP's website at https://ofccp.dol-esa.gov/preaward/pa_reg.html.

(c) The EEO poster required by FAR 22.805(b) can be found at: https://www.dol.gov/agencies/ofccp/posters.

522.807 Exemptions.

The agency labor advisor submits a request for exemption.

Subpart 522.10 - Service Contract Labor Standards

522.1003 Applicability.

522.1003-3 Statutory exemptions.

The Service Contract Labor Standards statute applies to local office relocation moves if transportation costs are incidental to the principal purpose of the contract. Such contracts do not meet the statutory exemption cited in FAR 22.1003-3(c).

522.1003-4 Administrative limitations, variations, tolerances, and exemptions.

Contracting officers shall coordinate with assigned legal counsel before submitting a request under FAR 22.1003-4(a) to the agency labor advisor.

522.1003-7 Questions concerning applicability of the Act.

The contracting officer may submit a question regarding the applicability of the Act to assigned legal counsel. If the question cannot be answered, the agency labor advisor will forward it to the Administrator, Wage and Hour Division.

522.1021 Requests for hearing.

Contracting Officers who are considering requesting a substantial variance should coordinate with assigned legal counsel and the agency labor advisor. The agency labor advisor submits any request.

Subpart 522.13 - Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

522.1305 Waivers.

Submit each waiver request to the agency labor advisor. The agency labor advisor forwards the request to the appropriate office for concurrence and approval.

522.1308 Complaint procedures.

After consultation with OGC, the contracting officer shall forward complaints to the cognizant Department of Labor office, with a copy to the agency labor advisor and the appropriate Office of Inspector General Field Office.

Subpart 522.14 - Employment of Workers With Disabilities

522.1403 Waivers.

Submit each waiver request to the agency labor advisor. The agency labor advisor forwards the request to the appropriate office for concurrence and approval.

522.1406 Complaint procedures.

After consultation with OGC, forward complaints to the cognizant OFCCP office, with a copy to the agency labor advisor and the appropriate Office of Inspector General Field Office.

Subpart 522.15 - Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor

522.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.

Refer matters for investigation under FAR 22.1503(e) to the appropriate Office of Inspector General Field Office.

PART 523 - ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Sec.

Subpart 523.1 - [Reserved]
Subpart 523.3 - Hazardous Material Identification and Material Safety Data
523.303 Contract clauses.
523.370 Solicitation provision.
Subpart 523.4 - [Reserved]

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PART 523 - ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 523.1 - [Reserved]

Subpart 523.3 - Hazardous Material Identification and Material Safety Data

523.303 Contract clauses.

(a) Insert the clause at 552.223-70, Hazardous Substances, in solicitations and contracts for packaged items subject to the Federal Hazardous Substances Act and the Hazardous Materials Transportation Act.

(b) Insert the clause at 552.223-71, Nonconforming Hazardous Materials, in solicitations and contracts for supplies that contain hazardous materials.

(c) Insert the clause at 552.223-73, Preservation, Packaging, Packing, Marking, and Labeling of Hazardous Materials (HAZMAT) for Shipments, in solicitations and contracts for packaged items containing hazardous materials.

523.370 Solicitation provision.

Insert the provision at 552.223-72, Hazardous Material Information, in solicitations that provide for the delivery of hazardous materials on an f.o.b. origin basis.

Subpart 523.4 - [Reserved]

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PART 524 - PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Sec.

Subpart 524.1 - Protection of Individual Privacy

524.103 Procedures.

Subpart 524.2 - Freedom of Information Act

524.203 Policy.

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PART 524 - PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 524.1 - Protection of Individual Privacy

524.103 Procedures.

(a) See 41 CFR 105-64, GSA Order CIO 2201.1, Privacy Act Program, and Privacy Act Program information available on Insite, when contracting for the design, development, or operation of a system of records on individuals.

(b) The Office of the Chief Acquisition Officer (OCAO) will review every two years a random sample of contracts that provide for the maintenance of a system of records pursuant to OMB Circular A-130, Appendix 1.

Subpart 524.2 - Freedom of Information Act

524.203 Policy.

(a) See 41 CFR 105-60 and GSA FOIA procedures available on Insite, for requirements on making records available under FOIA.

(b) The contracting officer shall notify the appropriate FOIA officer of the request.

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PART 525 - FOREIGN ACQUISITION

Sec.

Subpart 525.1 - Buy American Act—Supplies
525.103 Exceptions
Subpart 525.2 - Buy American Act—Construction Materials
525.202 Exceptions.
525.206 Noncompliance.
Subpart 525.5 - Evaluating Foreign Offers-Supply Contracts
525.502 Application.
Subpart 525.10 - Additional Foreign Acquisition Regulations
525.1070 Purchases Using Department of Defense (DoD) Appropriated Funds.
Subpart 525.11 - Solicitation Provisions and Contract Clauses
525.1170 Applying foreign acquisition prescriptions to GSA-created contracts.

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PART 525 - FOREIGN ACQUISITION

Subpart 525.1 - Buy American Act—Supplies

525.103 Exceptions

(a) *Public Interest*.

(1) Only the head of the agency may make the determination required by FAR 25.103(a). The head of the agency may not redelegate this authority.

(2) The determination must consider the cost advantages of any foreign sourced steel, iron, or manufactured goods.

(b) *Nonavailability*.

(1) *Class Determination*s. FAR 25.103(b)(1)(i) does not allow for class determinations to be made at the agency level

(2) *Class Determination*s– *Notice of Availability*. Regarding FAR 25.103(b)(1)(iii)(C), documentation supporting removal of an item from the list of Nonavailable Articles at FAR 25.104 should be submitted by the contracting officer to the Senior Procurement Executive (SPE) in the Office of the Chief Acquisition Officer. The SPE will determine whether the documentation should be forwarded to the Civilian Agency Acquisition Council (CAAC).

(3) *Individual Determinations*. Only the HCA may make the determination required by FAR 25.103(b)(2)(i). The HCA may not redelegate this authority.

(4) *Individual Determinations—Notice of Nonavailability*. Regarding when the contracting officer considers that non-availability of an item will affect future acquisitions (see FAR 25.103(b)(2)(ii)), documentation supporting the addition of articles to the list of Nonavailable Articles at FAR 25.104 should be submitted by the contracting officer to the SPE. The SPE will determine whether the documentation should be forwarded to the CAAC.

Subpart 525.2 - Buy American Act—Construction Materials

525.202 Exceptions.

(a) *Public Interest*.

(1) Only the head of the agency may make the determination required by FAR 25.202(a)(1). The head of the agency may not redelegate this authority.

(2) The determination described in FAR 25.202(b) must consider the cost advantages of any foreign sourced steel, iron, or manufactured goods.

(b) *Nonavailability*. Only the HCA may make the determination required by FAR 25.202(a)(2). The HCA may not redelegate this authority.

525.206 Noncompliance.

Regarding potentially fraudulent noncompliance under FAR 25.206(c)(4), refer the matter to the appropriate Office of Inspector General Office.

Subpart 525.5 - Evaluating Foreign Offers-Supply Contracts

525.502 Application.

The contracting officer's determination of nonavailability in accordance with FAR 25.502(b)(3) shall be made via a written determination and findings in accordance with FAR 1.704 and shall be submitted for HCA approval before the contracting officer may make an award for items that are not manufactured or substantially transformed in the U.S. or a country listed in FAR 25.003. A copy of the approved and signed D&F must be forwarded to the SPE via email to spe.request@gsa.gov.

Subpart 525.10 - Additional Foreign Acquisition Regulations

525.1070 Purchases Using Department of Defense (DoD) Appropriated Funds.

(a) The Berry Amendment, 10 U.S.C. 4862, applies domestic-source requirements to certain food, clothing, fabrics, specialty metals, and hand or measuring tools when purchased with DoD appropriated funds. The Berry Amendment, as applicable to purchases using DoD appropriated funds, is implemented at DFARS Subpart 225.70 and in clauses prescribed there.

(b) GSA acquisition personnel are responsible for reviewing requests for purchases using DoD appropriated funds to ensure that all special funding and procurement requirements, e.g., Berry Amendment applicability, have been disclosed to GSA.

Subpart 525.11 - Solicitation Provisions and Contract Clauses

525.1170 Applying foreign acquisition prescriptions to GSA-created contracts.

(a) In order to calculate the dollar value to determine which FAR subpart 25.11 provisions and clauses for either the Buy American Act or the Trade Agreements Act, if any, apply to a contract created by a GSA contracting activity (but not pursuant to an interagency agreement):

(1) Aggregate the value of all options as though they were exercised; and

(2) Aggregate the value of all expected orders (*i.e.*, the expected total contract value) against the indefinite-delivery contract.

(3) To determine whether the Trade Agreements Act threshold has been met, do not include the dollar value of a contract that is excepted from the Trade Agreements Act by FAR 25.401 (*e.g.*, do not include the dollar value of a contract set aside for small business).

(b) The foreign acquisition rules (*i.e.*, either the Buy American Act or the Trade Agreements Act, but never both) that apply at the indefinite-delivery contract level, also apply (*i.e.*, flow down) at the order level under that indefinite-delivery contract, meaning:

(1) If the Buy American Act applies to an indefinite-delivery contract, then the Buy American Act also applies to all orders against that indefinite-delivery contract regardless of the dollar value or other characteristics of the order itself; or instead

(2) If the Trade Agreements Act applies to an indefinite-delivery contract, then the Trade Agreements Act also applies to all orders against that indefinite-delivery contract, regardless of the dollar value or other characteristics of the order itself.

PART 526 - OTHER SOCIOECONOMIC PROGRAMS

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SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

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PART 527 - PATENTS, DATA, AND COPYRIGHTS

Sec.

Subpart 527.3 - Patent Rights under Government Contracts

527.306 Licensing background patent rights to third parties.

Subpart 527.4 - Rights in Data and Copyrights

527.409 Contract clauses (FAR DEVIATION).

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PART 527 - PATENTS, DATA, AND COPYRIGHTS

Subpart 527.3 - Patent Rights under Government Contracts

527.306 Licensing background patent rights to third parties.

For a D&F for licensing to third parties, submit the D&F for the Administrator's approval through the SPE (see FAR 27.306).

Subpart 527.4 - Rights in Data and Copyrights

527.409 Contract clauses (FAR DEVIATION).

GSA has a deviation from FAR 52.227-17 that allows use of the clauses in paragraphs (a) and (b) of this section in lieu of the FAR clause at 52.227-17.

(a) Except as provided in paragraph (b) of this section, insert 552.227-70, Government Rights (Unlimited),in lieu of the FAR clause at 52.227-17, in solicitations and contracts for—

(1) Architect-engineer services.

(b) If the Government requires sole property rights and exclusive control over the design and data, insert the clause at 552.227-71, Drawings and Other Data to Become Property of Government, in lieu the clause at FAR 52.227-17 in solicitations and contracts for—

(1) Architect-engineer services.

(2) Construction contracts involving architect-engineer services.

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PART 528 - BONDS AND INSURANCE

Sec.

Subpart 528.1 - Bonds and Other Financial Protections

528.101 Bid guarantees.

528.101-1 Policy on use.

528.102 Performance and payment bonds and alternative payment protections for construction contracts.

528.102-1 General.

528.103 Performance and payment bonds for other than construction contracts.

528.103-2 Performance bonds.

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528.202 Acceptability of corporate sureties.

528.202-70 Acceptability of bonds and sureties.

528.203 Acceptability of individual sureties.

528.203-7 Exclusion of individual sureties.

528.204 Alternatives in lieu of corporate or individual sureties.

Subpart 528.3 - Insurance

528.301 Policy.

528.310 Contract clause for work on a Government installation.

528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

528.311-1 Contract clause.

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PART 528 - BONDS AND INSURANCE

Subpart 528.1 - Bonds and Other Financial Protections

528.101 Bid guarantees.

528.101-1 Policy on use.

(a) *Construction contracts*. The bid guarantee requirements in FAR 28.101-1(a) apply to contracts over $150,000awarded under Section 8(a)of the Small Business Act, as amended (15 U.S.C. 637(a)).

(b) *Building service contracts*. The contracting officer may require bid guarantees for building service contracts over $150,000 if it is determined under 528.103-2 that a performance bond is essential to protect the Government's interest.

(c) *All other contracts*. Refer to FAR 28.101 for guidance on the use of bid guarantees.

528.102 Performance and payment bonds and alternative payment protections for construction contracts.

528.102-1 General.

(a) The performance and payment bond requirements in FAR 28.102-1 a apply to contracts over $150,000 awarded under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(b) The payment protection requirements in FAR 28.102-1(b) apply to contracts greater than $35,000, but not greater than the $150,000, awarded under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

528.103 Performance and payment bonds for other than construction contracts.

528.103-2 Performance bonds.

(a) The contracting officer shall not require performance bonds for building service contracts unless a written determination is made explaining why the bond is essential to protect the Government's interest and justifying the additional cost of the bonding requirement.

(b) The contracting officer may require a performance bond for building service contracts over $150,000 awarded under Section 8(a) of the Small Business Act as amended (15 U.S.C. 637(a)) if it is determined under 528.103-2(a) that a performance bond is essential to protect the Government's interest.

(c) The contracting officer shall not require a performance bond for building service contracts awarded to AbilityOne nonprofit agencies (41 U.S.C. chapter 85).

(d) Consider the circumstances and determine the penal amount of the performance bond on a case-by-case basis.

528.103-3 Payment bonds.

(a) The contracting officer may require payment bonds for other than construction contracts if the contracting director determines, under FAR 28.103-3, that such a requirement is in the Government's interest.

(b) Consider the circumstances and determine the penal amount of the payment bond on a case-by-case basis.

528.106 Administration.

528.106-6 Furnishing information.

The HCA or designee performs the functions outlined in FAR 28.106-6(c).

Subpart 528.2 - Sureties and Other Security for Bonds

528.202 Acceptability of corporate sureties.

Corporate surety bonds must be manually signed by the Attorney-in-Fact or officer of the surety company and the corporate seal affixed. The contracting officer may waive failure of the surety to affix the corporate seal as a minor informality. (See B-184120, July 2, 1975, 75-2 CPD 9.)

528.202-70 Acceptability of bonds and sureties.

Verify the acceptability of the surety on a bond by placing the words "Acceptability of Bond Verified," and sign immediately thereunder, on the bond or on a properly identified attachment. Retain the bond with the original of the contract. The contracting officer may use the Notice to Proceed to notify the contractor that the bond(s) has been accepted.

528.203 Acceptability of individual sureties.

Refer evidence of possible criminal or fraudulent activities by an individual surety first to the Assistant Inspector General for Investigations or to the appropriate Regional Special Agent in Charge. The Office of Inspector General may conduct an investigation and, when appropriate, refer the matter to the Senior Procurement Executive. Include in referrals the information required by 528.203-7.

528.203-7 Exclusion of individual sureties.

(a) The Senior Procurement Executive or designee excludes individuals from acting as a surety on bonds under FAR 28.203-7.

(b) Include the following, as a minimum, in referrals for consideration of exclusion:

(1) The basis for exclusion (see FAR 28.203-7(b)).

(2) A statement of facts.

(3) Copies of supporting documentary evidence.

(4) The individuals' names and current or last known home and or business addresses, including zip codes.

(5) A statement of GSA's history with such individuals, if any.

(6) A statement concerning any known active or potential criminal investigations or court proceedings.

(c) In accordance with GSA Order ADM 5000.4 Office of General Counsel Legal Review, legal review shall be obtained for the proposed exclusion.

528.204 Alternatives in lieu of corporate or individual sureties.

Security deposited instead of corporate or individual sureties on bonds must be safeguarded immediately after they are received, as provided in procedures issued by the Office of the Chief Financial Officer (see GSA Order CFO 4253.1, Accounts Receivable and Debt Collection Policy Manual. United States bonds or notes received in the District of Columbia must be deposited with the Treasurer of the United States, as provided in FAR 28.204-1.

Subpart 528.3 - Insurance

528.301 Policy.

Insurance requirements must be adequate, just, and reasonable. They should be predicated on potential loss or damage, not necessarily on the value of the contract.

528.310 Contract clause for work on a Government installation.

Insert the clause at 552.228-5, Government as Additional Insured, in solicitations and contracts that are expected to exceed the simplified acquisition threshold and require work on a Government installation.

528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

528.311-1 Contract clause.

Use the clause at FAR 52.228-7, Insurance–Liability to Third Persons, in solicitations and contracts, other than those for construction and those for architect-engineer services, when a cost-reimbursement contract is contemplated, unless the head of the contracting activity waives the requirement for use of the clause.

PART 529 - TAXES

Sec.

Subpart 529.1 - General

529.101 Policy.

Subpart 529.3 - State and Local Taxes

529.302 Application of State and local taxes to the Government.

Subpart 529.4 - Contract Clauses

529.470 Domestic contract clauses.

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PART 529 - TAXES

Subpart 529.1 - General

529.101 Policy.

Action may not be taken on any matters involving taxes on Federal purchases or contracts without obtaining legal review. See ADM 5000.4A for the requirement to obtain legal review by the Office of General Counsel (OGC) for agency actions. See FAR 29.101 (b) through (d) for the type of tax-related issues that require legal review.

Subpart 529.3 - State and Local Taxes

529.302 Application of State and local taxes to the Government.

If it has been determined that evidence of tax exemption is required, contracting officers shall follow the guidance as outlined on GSA Insite. Contracting officers shall input "Tax Exemption Information" in the search tool and then select "Tax Exemption Information" from the results list for point of contact information and GSA's tax exemption number.

Subpart 529.4 - Contract Clauses

529.470 Domestic contract clauses.

(a) Insert the clause at 552.229-70, Federal, State, and Local Taxes, in solicitations and contracts estimated to exceed the micro-purchase threshold, but not the simplified acquisition threshold.

(b) Insert the clause at 552.229-71, Federal Excise Tax—DC Government, in solicitations and contracts that allow the District of Columbia Government to place orders under the contract.

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PART 530 - COST ACCOUNTING STANDARDS ADMINISTRATION

Sec.

Subpart 530.2 - CAS Program Requirements
530.201-5 Waiver.
530.202 [Reserved]

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PART 530 - COST ACCOUNTING STANDARDS ADMINISTRATION

Subpart 530.2 - CAS Program Requirements

530.202 [Reserved]

530.201-5 Waiver.

Submit waiver requests to the Senior Procurement Executive.

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PART 531 - CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.

Subpart 531.1 - Applicability

531.101 Objectives.

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PART 531 - CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 531.1 - Applicability

531.101 Objectives.

The Senior Procurement Executive is the designee under FAR31.101.

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PART 532 - CONTRACT FINANCING

Sec.

Subpart 532.1 - Financing for Other Than a Commercial Purchase
532.103 Progress payments under construction contracts.
532.111 Contract clauses for non-commercial purchases (FAR DEVIATION).
532.112 Non payment of subcontractors under contracts other than for commercial products and commercial services.
532.112-1 Subcontractor assertions of nonpayment.
Subpart 532.4 - Advance Payments for Other Than Commercial Acquisitions
532.402 General.
532.407 Interest.
Subpart 532.5 - Progress Payments Based on Costs
532.501 General.
532.501-2 Unusual progress payments.
532.502 Preaward matters.
532.502-2 Contract finance office clearance.
532.503-5 Administration of progress payments.
532.503-6 Suspension or reduction of payments.
532.503-9 Liquidation rates—alternate method.
Subpart 532.6 - Contract Debts
532.606 Debt determination and collection.
Subpart 532.7 - Contract Funding
532.700 Scope of subpart.
532.702 Policy.
532.703 Contract funding requirements.
532.705 Unenforceability of unauthorized obligations.
532.706 Contract clauses.
532.706-3 Contract clauses for unenforceability of unauthorized obligations (FAR DEVIATION).
Subpart 532.8 - Assignment of Claims
532.805 Procedure.
532.806 Contract clauses.
Subpart 532.9 - Prompt Payment
532.904 Determining payment due dates.
532.905 Payment documentation and process.
532.905-70 Final payment—construction and building service contracts.
532.908 Contract clauses.
Subpart 532.11 - Electronic Funds Transfer [Reserved]
Subpart 532.70 - Authorizing Payment by Government Charge Card
532.7002 Solicitation requirements.
532.7003 Contract clause.
Subpart 532.71 - [Reserved]
Subpart 532.72 - Payments Under Contracts Subject to Audit
532.7201 General.
532.7202 Submission and processing of invoices or vouchers.
532.7203 Action upon receipt of an audit report.
532.7204 Suspension and disapproval of amounts claimed.

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PART 532 - CONTRACT FINANCING

Subpart 532.1 - Financing for Other Than a Commercial Purchase

532.103 Progress payments under construction contracts.

GSA Form 184 and, to the extent necessary, GSA Forms 184A and 184B, shall be prepared by Government personnel or agents of GSA to document satisfactory progress of work prior to processing each progress payment request submitted by the construction contractor in accordance with FAR 52.232-5 and 552.232-5. Generally, construction contractors are not considered agents of GSA. Certain other contractors, including, but not necessarily limited to, construction management contractors (CMs), however, may be considered agents of GSA if they are authorized to act on behalf of GSA to obtain the information for the referenced forms.

532.111 Contract clauses for non-commercial purchases (FAR DEVIATION).

Construction contracts. Insert the clause at 552.232-5, Payments under Fixed-Price Construction Contracts, in solicitations and contracts when a fixed-price construction contract is contemplated.

532.112 Non payment of subcontractors under contracts other than for commercial products and commercial services.

532.112-1 Subcontractor assertions of nonpayment.

If the contracting officer determines under FAR 32.112-1 that a contractor's certification of payment is inaccurate in any material respect, the contracting officer shall report the matter to the Office of Inspector General.

Subpart 532.4 - Advance Payments for Other Than Commercial Acquisitions

532.402 General.

The contracting officer shall 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 the contracting officer 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.

532.502 Preaward matters.

532.502-2 Contract finance office clearance.

Before providing for progress payments based on costs, the contracting officer shall request the Office of the Chief Financial Officer to provide advice and assistance about a contractor's financial condition and the adequacy of its accounting system and controls.

532.503-5 Administration of progress payments.

The contracting officer shall ensure that the contract finance office provides to the contracting office:

(a) The date and amount of each progress payment to a contractor; and

(b) 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, the contracting officer shall 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 the contracting officer's approval after coordination with the contract finance office. Upon approval, the contracting officer shall request the finance office to reduce the rate.

Subpart 532.6 - Contract Debts

532.606 Debt determination and collection.

(a) The contract finance office is responsible for the administration of debt collection pursuant to GSA directives, currently found in the Accounting Operations—Accounts Receivable and Credit and Finance Operations, and Related Activities Handbook (PFM P 4253.1).

(b) If the contracting officer determines that a debt in excess of $100 is delinquent, he/she shall notify the applicable finance office for collection in accordance with the Debt Collection Improvement Act of 1996, and possibly forward the information to the Department of the Treasury's Financial Management Service for administrative offset and cross-servicing.

(c) If the contractor appeals the demand for payment pursuant to the Disputes clause of its contract, the contracting officer shall 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).

532.702 Policy.

GSA's contract funding policies are in compliance with the full funding policy at 2, Section 31.6, OMB-C A-11, published June 26, 2008.

532.703 Contract funding requirements.

(a) "Severable services" means services that are continuing and ongoing in nature—such as help-desk support, maintenance, or janitorial services—for which benefit is received each time the service is rendered.

(b) "Non-severable services" means work that results in a final product or end-item and for which benefit is received only when the entire project is complete, such as systems design, building conversion, or environmental study.

(c) Contracts for severable services may cross fiscal years as long as the period of performance (excluding options) is no more than 12 months. Contracts for goods or non-severable services are not similarly limited.

532.705 Unenforceability of unauthorized obligations.

Supplier license agreements defined in FAR 32.705 are equivalent to commercial supplier agreements defined in 502.101.

532.706 Contract clauses.

532.706-3 Contract clauses for unenforceability of unauthorized obligations (FAR DEVIATION).

GSA has a deviation from FAR 52.232-39 that allows use of the clause in paragraph (a) of this section in lieu of the FAR clause at 52.232-39.

(a) Insert the clause at 552.232-39, Unenforceability of Unauthorized Obligations in all solicitations and contracts in lieu of the FAR clause at 52.232-39.

(b) Insert the clause at 552.232-78, Commercial Supplier Agreements—Unenforceable Clauses, in all solicitations and contracts (including orders) when not using FAR part 12.

Subpart 532.8 - Assignment of Claims

532.805 Procedure.

(a) When acknowledging receipt of the notice of assignment, the contracting officer shall 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. The contracting officer 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, the contracting officer shall 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 the contracting officer 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

532.904 Determining payment due dates.

Payment due dates for construction contracts are addressed at FAR 32.904(d). The following procedures apply to construction and building service contracts:

(a) 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.

(5) The agreed-upon dollar amount in a Deficiency Report, which is included in all applicable Operation and Maintenance (O&M) service contracts.

(b) An official one level above the contracting officer shall approve justifications exercising the authority prescribed by FAR 32.904(d)(1)(i)(B). The time needed should be determined on a case-by-case basis, but the specified constructive acceptance period shall not exceed 30 days.

532.905 Payment documentation and process.

(a) Contractors are to submit invoices or vouchers to the contracting officer for approval. Invoices must be annotated with the date of receipt, as required by FAR 32.905. That date will be used to determine interest penalties for late payments. The contracting officer or designee must review the processing of invoices or vouchers before payment to determine if the items and amounts claimed are consistent with the contract terms and represent prudent business transactions. The contracting officer must ensure that these payments are commensurate with physical and technical progress under the contract. If the contractor has not deducted questionable amounts from the invoice or amounts required to be withheld, the contracting officer must make the required deduction, except as provided in 532.7203. Subject to 532.7201, the contracting officer must note approval of any payment on (or attached to) the invoice or voucher submitted by the contractor and forward the invoice or voucher to the appropriate contract finance office for retention after certification and scheduling for payment by a disbursing office.

(b) See GSAM 532.7203 for the handling of audit findings.

532.905-70 Final payment—construction and building service contracts.

The following procedures apply to construction and building service contracts:

(a) The Government shall pay the final amount due to the contractor under this contract after the documentation in the payment clauses of the contract is submitted. This includes the final release prescribed for construction at FAR 52.232-5, and for building services at GSAR 552.232-72.

(b) A contracting officers may only process the final payment for a construction or building service contracts once:

(1) The contractor submits a properly executed GSA Form 1142, Release of Claims; or
(2) The contracting officer documents in the contract file:
(i) That the contracting officer requested a release of claims from the contractor and did not receive a response within 60 calendar days; and
(ii) Approval to process the final payment from one level above the contracting officer.

532.908 Contract clauses.
(a) *Building services contracts*. Insert the clause at 552.232-72, Final Payment Under Building Services Contracts, in solicitations and contracts for building services.
(b) *Stock, Special Order, and Schedules Programs. FAR deviation*. GSA has a deviation from FAR 52.232-25 to authorize payment within 10 days of receipt of a proper invoice. The deviation applies only to:
(i) Orders placed by GSA under Stock, Special Order, and Schedules programs;
(ii) That include FAR clause at 52.232-33, Mandatory Information for Electronic Funds Transfer Payment; and
(iii) For which the order is placed, and the contractor submits invoices using EDI in accordance with the Trading Partner Agreement.
(2) If the contract is for other than commercial products or commercial services, use the clause at 552.232-25, Prompt Payment, in lieu of the FAR clause at 52.232-25.

Subpart 532.11 - Electronic Funds Transfer

[Reserved]

Subpart 532.70 - Authorizing Payment by Government Charge Card

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.
For Schedule contracts that provide for payment using the Government charge card, use the clause(s) prescribed at part 538.

Subpart 532.71 - [Reserved]

Subpart 532.72 - Payments Under Contracts Subject to Audit

532.7201 General.

532.7202 Submission and processing of invoices or vouchers.

(a) Contractors should be required to submit invoices or vouchers to the contracting officer. The date on which the contracting officer receives the invoice or voucher will be used to determine interest penalties for late payments. The contracting officer, or designee, must review the processing of invoices or vouchers before payment to determine if the items and amounts claimed are consistent with the contract terms and represent prudent business transactions. The contracting officer must ensure that these payments are commensurate with physical and technical progress under the contract. If the contractor has not deducted questionable amounts from the invoice or amounts required to be withheld, the contracting officer is responsible for making the required deduction, except as provided in 532.7203.

(b) Subject to 532.7201, the contracting officer should note approval of any payment on (or attached to) the invoice or voucher submitted by the contractor, then forward the invoice or voucher to the appropriate contract finance office for retention after certification and scheduling for payment by a disbursing office.

532.7203 Action upon receipt of an audit report.

Audit reports will be furnished to the contracting officer with a copy to the appropriate contract finance office. Upon receipt of an audit report, pursuant to contract terms, the contracting officer is responsible for determining the allowability of all costs covered by audit. While the auditor's recommendations should be given full consideration, the contracting officer must make an independent business judgment before taking any action based on the audit report. If there is doubt or question about the auditor's recommendations, the contracting officer is required to follow the audit resolution procedures in GSA Order ADM 2030.2, Internal Audit Follow-up Handbook.

532.7204 Suspension and disapproval of amounts claimed.

(a) The contracting officer shall notify the appropriate contract finance office in writing when amounts claimed for payment are—

(1) Suspended;

(2) Disapproved as not being allowable according to contract terms; or

(3) Not allocable to the contract.

(b) The contracting officer's notice forms the basis for the contract finance office to issue GSA Form 533-1, Administrative Difference Statement. Finance will attach a copy of GSA Form 533-1 to each copy of the invoice or voucher from which the deduction has been made, and will include an explanation of the deduction.

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PART 533 - PROTESTS, DISPUTES, AND APPEALS

Sec.

Subpart 533.1 - Protests

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533.102 General.
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533.103-1 Filing a protest.
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Subpart 533.2 - Disputes and Appeals

533.209 Suspected fraudulent claims.
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533.214 Alternative dispute resolution (ADR).

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PART 533 - PROTESTS, DISPUTES, AND APPEALS

Subpart 533.1 - Protests

533.101 Definitions.

"Agency Protest Official for GSA" means the Central Office official in the Office of the Chief Acquisition Officer (OCAO) designated to independently review and decide procurement protests filed with GSA when the protester requests an agency review by other than the contracting officer.

"Deciding official" means the person chosen by the protester to decide the agency protest; it may be either the contracting officer or the Agency Protest Official for GSA.

533.102 General.

Unless otherwise authorized by the Office of General Counsel (OGC), OGC contacts anyone outside of GSA involved in protests of GSA contract actions filed with the Comptroller General or in a Federal court.

533.103 Protests to the agency.

533.103-1 Filing a protest.

(a) Any protester filing an agency protest has the choice of requesting either that the contracting officer or the Agency Protest Official decide the protest. If the protest is silent on this matter, the contracting officer will decide the protest. If a party requests a review at a level above the contracting officer, the Agency Protest Official will decide the protest. The decision by the Agency Protest Official for GSA is an alternative to a decision by the contracting officer on a protest. The Agency Protest Official for GSA will not consider an appeal of the contracting officer's decision on an agency protest.

(b) If an agency protest is filed, the deciding official uses the procedures in FAR 33.103 and this section to resolve the protest. The deciding official will provide a fair and quick review of any protest filed with the agency.

(c) The filing timeframes in FAR 33.103(e) apply. An agency protest is filed when the complete protest is received at the location the solicitation designates for serving protests. GSA's hours of operation are 8 a.m. to 4:30 p.m. Protests delivered after 4:30 p.m. will be considered received and filed the following business day.

(d) The protest must meet all the following conditions:

(1) Include the information required by FAR 33.103(d)(2).

(2) Indicate that it is a protest to the agency.

(3) Be filed in writing with the contracting officer.

(4) State whether the protester chooses to have the contracting officer or the Agency Protest Official decide the protest. If the protest does not include the protester's choice, then the contracting officer will decide the protest (see paragraph (a) of this subsection).

(e) The following procedures apply to information submitted in support of or in response to an agency protest:

(1) GSA procedures do not provide for any discovery.

(2) The deciding official has discretion to request additional information from either the agency or the protester, orally or in writing, as may be necessary to render a timely decision on the protest. However, protests are normally decided on the basis of information initially provided by the protester and the agency.

(3) To the extent permitted by law and regulations, the parties may exchange relevant information.

(4) The agency must make a written response to the protest within ten days unless another date is set by the deciding official.

(5) The agency must also provide the protester with a copy of the response on the same day it files the protest response with the deciding official. If the agency believes it needs to redact or withhold any information in the response from the protester, it should identify and provide the information to the deciding official for *in camera* review.

(f) A protester may represent itself or be represented by legal counsel. GSA will not reimburse the protester for any legal fees related to the agency protest.

(g) GSA may dismiss or stay proceedings on an agency protest if a protest on the same or similar basis is filed with a protest forum outside of GSA.

533.103-2 Deciding a protest.

(a) When the Agency Protest Official is the deciding official:

(1) The contracting officer must ensure that the Agency Protest Official and assigned legal counsel receive a copy of the materials served on the contracting officer within one business day after the filing date.

(2) The Agency Protest Official must conduct a scheduling conference with the protester and assigned agency legal counsel as soon as practicable after the protest is filed. The scheduling conference will establish the Agency Protest Official's plan to develop an appropriate record to assist his/her decision making. The Agency Protest Official, in his/her discretion, may ask the parties to participate in an oral presentation and/or to submit other written material related to the protest issues. In the event the Agency Protest Official deems it necessary to have an oral presentation following submission of the agency's written response, it should be limited to resolving remaining issues of material fact necessary for resolution of the protest, as identified in advance by the Agency Protest Official. In such a case, the Agency Protest Official will determine whether a further written response from both parties is required following the oral conference. Other parties (*e.g.*, representatives of the program office) may attend at the discretion of the Agency Protest Official.

(3) If the Agency Protest Official sustains a protest, the contracting officer must, within thirty (30) days after receiving the protest decision, fully implement the recommended relief.

(b) Conferences and presentations may take place either by telephone or in person.

(c) If GSA receives an agency protest before contract award, the contracting officer shall not make award unless the HCA makes a determination to proceed under FAR 33.103(f)(1). Similarly, if GSA receives an agency protest within ten (10) days after award or within five (5) days after a debriefing date offered to the protester under a timely debriefing request under FAR 15.505 or 15.506, whichever is later, the contracting officer must suspend contract performance unless the HCA makes a determination to proceed under FAR 33.103(f)(3). Any stay of award or suspension of performance remains in effect until the protest is decided, dismissed, or withdrawn.

(d) The deciding official must obtain legal review of all draft protest decisions as required by GSA Order ADM 5000.4, Office of General Counsel Legal Review.

(e) The decision of the deciding official must be in writing, dated, and include the following information:

(1) Whether the protest was denied, sustained, or dismissed; and

(2) The rationale for the decision.

(f) If the deciding official sustains the protest, relief may consist of any of the following recommendations:

(1) Terminating the contract.

(2) Recompeting the requirement.

(3) Amending the solicitation.

(4) Refraining from exercising contract options.

(5) Reevaluating the offers or bids and awarding a contract consistent with statute, regulation, and the terms of the solicitation.

(6) Other action determined appropriate by the deciding official.

533.104 Protests to GAO.

(a) *General procedures*. (1) The expeditious and timely handling of Government Accountability Office (GAO) protests is a GSA priority.

(2) As soon as GAO receives a protest filed against GSA, it informs the GSA Office of General Counsel (OGC). OGC will —

(i) Formally request a Statement of Fact and Position and compilation of documents (see FAR 33.104(a)(3)) from the contracting officer;

(ii) Notify the contracting officer of the designated protest counsel (the GSA attorney responsible for handling the case);

(iii) Provide GAO with the name, title, and telephone number of one or more GSA officials who may be contacted by GAO regarding the protest.

(3) If the contracting activity receives a protest before being informed of it by OGC, he/she must immediately forward it to OGC.

(4) The designated protest counsel is responsible for preparing a report to GAO, based upon the Contracting Officer's Statement of Fact and Position.

(5) The Contracting Officer's Statement of Fact and Position shall be reviewed by designated protest counsel and the contracting director.

(6) The Contracting Officer's Statement of Fact and Position and the compilation of documents under FAR 33.104(a)(3)(ii) are due to the designated protest counsel within 10 business days after receipt of the protest by the contracting officer. The time period may be reduced if the GAO so decides. If the contracting officer cannot complete the Statement of Fact and Position and the compilation of documents within the time, the contracting officer must promptly telephone the designated protest counsel with the reason for the delay. The designated protest counsel has the discretion to authorize or disapprove the request; if the extension would delay submission of GSA's report to GAO beyond 30 days from receipt of the protest, the designated protest counsel must first consult with GAO.

(7) Once the Statement of Fact and Position has been sent to the designated protest counsel, the contracting officer and Regional Counsel are responsible for promptly informing the designated protest counsel of any later developments that may affect the case.

(8) The contracting officer is responsible for informing all interested parties that a GAO protest has been filed. (See FAR 33.104(a)(2).) This should be done in writing using a method that provides evidence of receipt.

(b) *Competition in Contracting Act (CICA) stay overrides*. GSA requires the contracting officer to prepare the written determination and findings (D&F) under FAR 33.104(b) and (c) and obtain the concurrence of the Associate General Counsel (and Regional Counsel if a regional procurement) before submitting the D&F for the HCA's approval and signature. Once the D&F is signed, the designated protest counsel must inform GAO of the findings and intention to award, or authorize contract performance, before GSA can actually take the intended action. Copies of the decision must be distributed in accordance with FAR 33.104(d).

(c) *Content of Report to GAO*. (1) *All reports*. In addition to the requirements of FAR 33.104(a)(3), the GSA report contains all the following:

(i) GAO protest number (GAO case file number).

(ii) Solicitation or contract number.

(iii) Full corporate name of the protesting organization and other firms involved.

(iv) Statement indicating if the protest was filed before or after award.

(2) *Report for protest after award*. If the protest is filed after award, the report also includes:

(i) Identity of the awardee.

(ii) Date of award.

(iii) Contract number.

(iv) Date and time of bid opening (including a statement if the date of bid opening was extended by amendments).

(v) Total number of offerors.

(vi) Complete chronological statement of all relevant events and administrative actions taken (including reasons and authority for the actions taken).

(vii) Other relevant documents believed helpful in determining the validity of the protest. This evidence should be referenced and identified within the text of the position statement, alphabetically or numerically, *e.g.*, Tab A, Exhibit 1, etc.

(d) *Notice to GAO*. OGC concurs on the HCA's report to the Comptroller General if GSA has decided not to comply with GAO's recommendation.

533.105 Court of Federal Claims Protests.

(a) Upon receipt of either a copy of a protest filed in the Court of Federal Claims (COFC) or a telephone call from the Department of Justice (DOJ) advising of the filing of a COFC protest, the contracting officer shall immediately notify and/or send a copy of any filed documents received to OGC.

(b) OGC is responsible for communicating and coordinating with DOJ regarding defense of any COFC protest. The contracting officer shall provide information and support as directed by OGC, including compilation of necessary documents and other materials.

Subpart 533.2 - Disputes and Appeals

533.209 Suspected fraudulent claims.

In GSA, the agency official responsible for investigating fraud is the Office of Inspector General.

533.211 Contracting officer's decision.

The contracting officer's written decision must include the paragraph at FAR 33.211(a)(4)(v). The contracting officer shall state in the decision that a contractor's notice of appeal to the Civilian Board of Contract Appeals (CBCA) should include a copy of the contracting officer's decision.

533.212 Contracting officer's duties when an appeal is filed.

533.212-1 General.

(a) The contractor may elect to appeal the contracting officer's decision by filing a notice of appeal with the Civilian Board of Contract Appeals (CBCA) or by filing suit in the United States Court of Federal Claims (COFC). In cases brought before the CBCA, GSA is represented by the GSA Office of General Counsel (OGC). In cases brought before the COFC, GSA is represented by the Department of Justice (DOJ), with the assistance of OGC.

(b) When a case is brought before the CBCA or the COFC, OGC will notify the contracting officer of the designated litigation counsel (the GSA attorney responsible for handling the case). The contracting officer shall provide assistance to designated litigation counsel as specified in this section or as otherwise requested by designated litigation counsel.

(c) Notwithstanding the filing of an appeal, the contracting officer retains existing authorities with respect to the administration of the contract. However, the contracting officer is not authorized to represent GSA before the CBCA or the COFC or to an attorney representing the contractor. If the contracting officer is contacted by an attorney for the contractor, the contractor's attorney must be referred to GSA's designated litigation counsel.

(d) If a contractor appeals a decision that has been deemed to be denied in accordance with the Contract Disputes Act (CDA), the CBCA or COFC may require the contracting officer to issue a decision in accordance with the CDA at 41 U.S.C. §605.

533.212-2 Procedures when an appeal is filed.

(a) Timeliness. If the contracting officer believes that the appeal is untimely filed, either at the CBCA or COFC, the contracting officer shall immediately transmit to designated litigation counsel copies of documentary evidence related to timeliness, including a copy of the final decision and certified mail receipt.

(b) CBCA Appeal File.

(1) When an appeal is filed before the CBCA, the contracting officer shall prepare the file of documentary exhibits required in the Board's Rules of Procedure at https://www.cbca.gsa.gov, in accordance with the Board's rules governing the Appeal File.

(2) Generally, the Appeal File shall include all documents referenced in and supporting the agency's position, including, the contract, the claim, and the contracting officer's decision.

(3) The contracting officer should consult with the counsel to obtain general assistance in preparing the Appeal File, and consult with designated litigation counsel to determine requirements specific to the appeal, including possible electronic submission of the Appeal File. If the contract is voluminous and the dispute pertains only to a discrete portion of the contract, the contracting officer should consult with designated litigation counsel to determine whether inclusion of a portion of the contract is acceptable.

(4) In preparing the Appeal File, the contracting officer must adhere to the following particular requirements:

(i) The exhibits must be placed in a 3-ring binder(s), with numbered tabbed division sheets separating each exhibit.

(ii) The exhibits must be assembled in chronological order, with the oldest exhibit coming first.

(iii) If a multi-page exhibit lacks internal pagination, page numbering must be added, by hand, label, stamp or other means.

(iv) An index must be prepared including a brief description of each exhibit, the date of the exhibit, and the tab number corresponding to the exhibit.

(5) The contracting officer shall submit the proposed Appeal File, together with an electronic version of the index, to designated litigation counsel within 20 days of receiving notice of appeal, or shorter, if notified that accelerated procedures apply. Should the volume of exhibits or other factors require additional time for preparation of the Appeal File, the contracting officer should immediately notify designated litigation counsel in order that an extension may be obtained.

(6) After designated litigation counsel has reviewed the proposed Appeal File and index, the contracting officer shall make revisions as requested. Unless otherwise requested, the contracting officer shall produce five copies of the Appeal File and transmit four copies to designated litigation counsel.

(c) COFC Litigation Report.

(1) When a case is filed at the COFC, the agency is required to furnish a litigation report to DOJ. The contracting officer shall furnish all necessary information to designated litigation counsel for preparation of the litigation report.

(2) At a minimum, the information to be furnished shall include—

(i) A narrative of the factual background underlying the dispute;

(ii) A copy of the claim and the contracting officer's decision;

(iii) Copies of documents related to the dispute, including copies of documents referenced in the claim or contracting officer's decision;

(iv) Name and contact information for GSA and other personnel involved in the dispute.

(d) *Answer to Complaint.* When an appeal is filed at the CBCA or COFC, the contractor is required to file a formal pleading called a Complaint, which sets forth the allegations of fact upon which the claim is based. The Government, except for the situation discussed below, is obligated to respond to the Complaint by admitting, denying, or otherwise responding to the contractor's allegations in a formal pleading called the Answer. The contracting officer shall assist designated litigation counsel in the drafting of the Answer by advising whether the contractor's allegations of fact should be admitted or denied. If a response to an allegation in the complaint requires information in the possession of other GSA personnel, the contracting officer shall conduct sufficient research reasonably necessary in order to form a belief as to the truth of the allegation. If the information necessary to form a belief as to the truth of the allegation is not in GSA's possession, the contracting officer shall so advise designated litigation counsel. In some cases, the Government may respond to the Complaint by filing a motion to dismiss in lieu of filing an Answer. Designated litigation counsel will advise the contracting officer if a motion to dismiss will be filed.

(e) *Discovery*. After the complaint and answer are filed with the CBCA or COFC, each party will usually commence discovery. The contracting officer shall assist designated litigation counsel in responding to all discovery requests, including providing information in response to interrogatories, identifying and locating requested documents, and assisting with production of witnesses for depositions.

533.212-3 Preservation of Evidence.

When an appeal is filed, the contracting officer is required to ensure that evidence in his or her control related to a dispute is preserved. In addition to physical documentation, such evidence includes electronic data stored on agency computer systems. The contracting officer shall assist designated litigation counsel with preservation of evidence by identifying relevant files containing physical documentation, including not only the contract file but files containing information related to the dispute that are maintained by other GSA organizations. The contracting officer shall also assist designated litigation counsel in identifying other GSA personnel whose electronic data, including email, word processing documents, spreadsheets, and other electronic files may include information relating to the dispute.

533.212-4 Settlement.

Notwithstanding the contracting officer's claim of settlement authority, the contracting officer is not authorized to settle a case brought before the CBCA or COFC. Only OGC may authorize settlement of a case before the CBCA or concur on behalf of GSA to the settlement of a case before the COFC, subject to internal OGC approval requirements. The contracting officer shall provide requested assistance to designated litigation counsel in the negotiation, review, and approval of settlements.

533.214 Alternative dispute resolution (ADR).

It is GSA's policy to use ADR to effect the prompt, efficient and just resolution of disputes. The contracting officer should refer to GSA Order CSL 5050.1, Using Alternative Dispute Resolution Techniques, and consult with designated litigation counsel on the use of ADR.

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SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

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PART 534 - MAJOR SYSTEM ACQUISITION

Sec.

Subpart 534.2 - Earned Value Management Systems.
534.201 Policy.
534.201-70 Procedures.
534.202 Integrated Baseline Reviews (IBR).

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PART 534 - MAJOR SYSTEM ACQUISITION

Subpart 534.2 - Earned Value Management Systems.

534.201 Policy.

(a) *Policy*. This Subpart provides policies and procedures for incorporating an Earned Value Management System (EVMS) (see FAR 2.101) in GSA contracts, for the exclusive use of GSA, pursuant to OMB Circular A-11, 7. It is a results-based tool that can also provide for the preclusion of possible problems or concerns during the project.

(b) *Definition of major acquisition*. OMB Circular A-11, 7, Capital Planning Guide Supplement, refers to the definition of "major acquisition" as a capital project that requires special management attention because of its: (1) importance to an agency's mission; (2) high development, operating, or maintenance costs; (3) high risk; (4) high return; or (5) significant role in the administration of an agency's programs, finances, property, or other resources.

(c) *Applicability*. It is GSA policy to define major acquisition for the purposes of EVMS as follows:

(1) *GSA acquisitions valued at $20 million or more*. Cost-reimbursement or incentive contracts and orders (see FAR subparts 16.3 and 16.4) shall require a formally validated EVMS (in accordance with ANSI/EIA-748-A Earned Value Management System Acceptance Guide (see 534.201(d) below)). EVMS requirements shall be included in contracts, MAS orders, and GWAC orders when the requirements entail developmental or modernization work, as defined by OMB's definition of Developmental/Modernization/Enhancement in A-11, 7. Firm-fixed price, time-and-materials, and labor hour contracts and orders that are solely for commercial products or commercial services should not normally include EVMS.

(2) *GSA acquisitions valued at less than $20 million*. EVMS requirements apply for contracts and orders of any type valued at less than $20 million if the program manager and contracting officer determine that EVMS is needed in that instance. This rationale shall be documented in the acquisition plan for the procurement.

(d) *Resources and Guides*. EVMS is based upon the application of an international standard, ANSI/EIA-748-A (June 2007). EVMS resource and guides are available at http://www.ndia.org/divisions/ipmd/division-guides-and-resources. These resources and guides include:

(1) EVMS Application Guide.
(2) EVMS Surveillance Guide.
(3) EVMS Intent Guide.
(4) EVMS System Acceptance Guide.
(5) Program Managers' Guide to the Integrated Baseline Review Process.
(6) Integrating Risk Management with Earned Value Management.

534.201-70 Procedures.

(a) *General*. Major acquisitions are designated by agency planners in coordination with OMB. All major acquisitions should have a complete and approved acquisition plan, a performance-based work statement, and a performance-based management system. The contracting officer should coordinate with the program manager to determine whether the program has been designated a major acquisition and, if so, to ensure that the following have been adequately addressed in order to apply EVMS properly.

(b) *Adequate funding*. Before proceeding with the procurement, the contracting officer should verify that the program budget contains sufficient funding to conduct required EVMS reviews and the Integrated Baseline Review (IBR) (see FAR 34.202 and appropriate NDIA Guide).

(c) *Contract work breakdown structure*. The program manager is responsible for preparing the Contract Work Breakdown Structure (CWBS) to be included in the work statement. The reporting of progress, performance, and engineering evaluations, as well as financial data and variance analysis, is based on the CWBS.

(d) *Requirements Package language*. When a proposed acquisition meets the requirements for EVM applicability, the requirements package must address the Contract Work Breakdown Structure (CWBS) and the performance schedule, and it must include in the work statement the requirement for EVMS. Sample language is provided below and should be modified to fit particular program requirements.

(1) *EVMS statement for work statement*.

"The Contractor must utilize an EVMS for planning, controlling, and integrating project scope, schedule, and resources. The Contractor must provide documentation that its EVMS is compliant with the Standard. If the Contractor proposes to use an EVMS or similar system that is not compliant, the Contractor must submit with its proposal a comprehensive plan to develop and implement a compliant EVMS."

(2) *Contract Work Breakdown Structure (CWBS)*. The program manager is responsible for preparing a preliminary CWBS that is compatible with the Program Work Breakdown Structure (PWBS) and for including the CWBS in the requirements package. When determining the appropriate reporting level, the program manager should extend the CWBS only to the level that allows visibility into those high-cost, high-risk, or specific areas critical to the success of the program. The CWBS should not specify an excessive number of lower-level elements because it may impinge on the contractor's normal method of operations or result in excessive reporting. Sample CWBS language follows:

"The Contractor must extend the preliminary CWBS specified in the solicitation to meaningful management or product-oriented lower levels that reflect the way it does business. The Contractor must prepare and deliver a CWBS Index and Dictionary. The Contractor has complete flexibility in extending the CWBS, but it must ensure that the CWBS is reconcilable with the Program WBS and that reporting of progress, performance, and engineering evaluations, as well as financial data and variance analysis, is based on the CWBS. The CWBS must be extended to the necessary level to support development of a logical and efficient sequence of tasks designed to accomplish the effort described in the Contract."

(3) *Performance Schedule*. To ensure that the management control system is integrated, the program manager is required to define requirements in the work statement for a schedule showing the sequence of events and the critical path for program milestones or deliverables. Offerors should be required to use this schedule in preparing their proposals, and the performance schedule will ultimately result in an Integrated Master Schedule after completion of the IBR. Sample work statement language follows:

"The Contractor must establish a performance schedule that describes in sufficient detail the sequence of events needed to accomplish the requirements of the contract. The performance schedule must also reflect congruent CWBS elements. The Contractor must ensure the performance schedule portrays an integrated schedule plan to meet the milestones and delivery requirements of the contract. The performance schedule also must identify the program's critical path. The performance schedule is to be constructed using a software tool compatible with standard scheduling software. The Contractor must submit the performance schedule at the post-award conference and an updated version monthly in program status reviews."

(e) *Acquisition planning*. See FAR 7.105(b)(3) and (b)(10) for required acquisition planning for EVMS.

(f) *Reporting*. Contractors are required to submit EVM reports on a monthly basis. These reporting requirements shall be included as contract data deliverables. The work statement should require the contractor to use appropriately tailored value information as the basis for preparing the monthly EVM reports and to integrate and present cost, schedule, and technical performance reviews.

534.202 Integrated Baseline Reviews (IBR).

GSA policy prohibits the conduct of pre-award Integrated Baseline Reviews (IBR). Therefore, when an Integrated Baseline Review is conducted, it shall be conducted after award.

PART 535 - RESEARCH AND DEVELOPMENT CONTRACTING

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PART 536 - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

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PART 536 - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 536.1 - General

536.101 Applicability.

This part supplements FAR 36 policies and procedures applicable to contracting for construction and architect engineer services. Contracts for construction management services are covered by FAR 37 and GSAM part 537. part 536 shall take precedence when the acquisition involves (1) construction or architect-engineer services, and (2) when the requirement is inconsistent with another part of the GSAR.

536.102 Definitions.

"Construction activity" means the organizational level of the agency that has authority and responsibility for the architectural, engineering, and other technical or administrative aspects of design and construction.

"Construction-Manager-as-Constructor" (CMc) means the project delivery method where design and construction are contracted concurrently through two separate contracts and two separate contractors. Unlike the traditional design-bid-build delivery method, under the CMc delivery method, the Government awards a separate contract to a designer *(i.e.*, architect-engineer contractor) and to a construction contractor (*i.e.*, CMc contractor) prior to the completion of the design documents. The Government retains the CMc contractor during design to work with the architect-engineer contractor to provide constructability reviews and cost estimating validation. The CMc contract includes design phase services at a firm-fixed-price and an option for construction at a guaranteed maximum price.

"Statutory cost limitations" means the cost limits included in the agency's statutory authorization or annual appropriations act (by law).

536.103 Methods of Contracting.

(a) Except as provided in paragraph (b) of this subsection, although CMc contracts are considered incentive-type contracts (see 536.207), contracting officers are authorized to use the CMc project delivery method without completing a determination and finding as required by FAR 16.401(d). Contracting officers shall discuss the CMc project delivery method as part of the acquisition plan (see FAR 7.105).

(b) To the extent the contracting officer incorporates an award-fee component into the CMc (in addition to the shared savings incentive), then the determination and finding required by FAR 16.401(d) is required to support any such award-fee.

(c) The contracting officer shall use the tradeoff process as described in FAR 15.101-1, unless a different source selection approach is approved in writing by the HCA, for selecting a construction contractor under the CMc project delivery method, and select sources in accordance with subpart 536.7103.

Subpart 536.2 - Special Aspects of Contracting for Construction

536.201 [Reserved]

536.202 [Reserved]

536.203 Government estimate of construction cost.

(a) *Preparation of the Government Estimate*.

(1) A copy of the independent Government estimate shall be submitted to the contracting officer before the date and time for bid opening or the date for receipt of proposals.

(2) Before releasing a solicitation amendment that may affect price, a revised Government estimate shall be provided.

(b) *Release of the Government Estimate*.

(1) Prior to award, the Government may disclose budget (*e.g.* prospectus) information in addition to the information required under FAR 36.204 and GSAM 536.204.

(2) During negotiations, the Government may disclose specific cost figures, but only to the extent considered necessary for arriving at a fair and reasonable price (also see 536.7103(c) and FAR 15.306(e)(3)).

(3) Prior to award and during negotiations, the overall amount of the independent Government estimated price may not be disclosed.

(c) *Use of the Government estimate.* The contracting officer may use the Government estimate. to evaluate offers, as a guide in conducting contract negotiations or negotiations of contract modifications, and as a tool for determining the reasonableness or realism of prices.

536.204 Disclosure of the magnitude of construction projects.

(a) For construction projects over $10,000,000, show the magnitude in ranges having increments of $10,000,000 (e.g., $25,000,000 to $35,000,000). The contracting officer may show the magnitude in ranges using a multiple of $10,000,000 (*e.g.*, $70,000,000 to $100,000,000), but the lower figure shall be at least half of the higher figure.

(b) For the CMc project delivery method:

(1) The range maximum is the total evaluated price, as described at 536.7103(b)(3), that the Government will accept, inclusive of the design phase services, guaranteed maximum price option(s), and other separately priced line items.

(2) Advanced notices and solicitations may state Government budget (*e.g.* prospectus) information for the guaranteed maximum price, as described at 536.7102, for construction services.

536.207 Pricing Fixed-Price Construction Contracts.

For the CMc project delivery method, the construction contract is a variation of the fixed-price incentive (successive target) contract type, described in FAR 16.403-2, that is tailored for construction. The profit adjustment formula is accomplished via a shared savings ratio specified in the contract, as described at 536.7105-5.

536.208 Concurrent Performance of Firm-Fixed-Price and Other Types of Construction Contracts.

The prohibition at FAR 36.208 does not apply to construction contracts under the CMc project delivery method.

536.270 Options in construction contracting.

536.270-1 Use of options.

(a) Subject to the limitations in this section, contracting officers may include options in contracts when it is in the Government's interest.

(b) The scope of work in the base contract at award shall require the contractor to provide a discrete and fully functional deliverable. Options shall not be used to incrementally deliver work required to fulfill the requirements of the scope of work for the base contract.

(c) Contracting officers shall justify in writing the use of options.

(d) Including an option may be in the Government's interest when, in the judgment of the contracting officer:

(1) Additional work beyond the base contract is reasonably foreseeable

(2) It would not be advantageous to award a separate contract;

(3) It would not be advantageous to permit an additional contractor to work on the same site;

(4) Services arising out of or relating to the underlying construction contract may be required during or after substantial completion of the scope of work. For instance, if building equipment (*e.g.*, mechanical and electrical equipment) will be installed under the construction contract, it may be advantageous to have the construction contractor maintain and service the equipment. In such an instance, the services performed may be included as an option to the underlying construction contract. Contracting officers shall ensure that the applicable clauses are included in any such option (*e.g.*, Service Contract Act); or

(5) It is otherwise justified.

(e) Options for construction work may provide for an economic price adjustment based on cost or price indexes of labor or materials (see FAR 16.203-4(d)). Subject to the approval of the Head of the Contracting Activity (HCA), the contracting officer may develop and insert a project-specific price adjustment clause into the solicitation.

536.270-2 Solicitations.

Solicitations containing options shall:

(a) Include appropriate option provisions and clauses when resulting contracts will provide for the exercise of options (see 536.270-5);

(b) State the period within which the options may be exercised; and

(c) State whether the basis of evaluation is inclusive or exclusive of the options (if exclusive, see 536.270-4(c)).

536.270-3 Evaluation.

For sealed bidding that includes options:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for the base bid and all options designated to be evaluated.

(b) Before opening bids that include options, the contracting officer must determine, and record in the contract file, the amount of funds available for the project. The amount recorded must be announced at the beginning of the bid opening. This amount may be increased later when determining the items to be awarded to the low bidder if the following condition is met: the award amount of the base bid and evaluated options does not exceed the amount offered for the base bid, the evaluated options, and the same combination of items by any other responsible bidder whose bid conforms to the solicitation. This requirement prevents the displacement of the low bidder by manipulating the options to be used.

536.270-4 Exercise of options.

(a) The contracting officer shall exercise options in writing within the time period specified in the contract.

(b) The contracting officer may exercise options only after determining, in writing, that all the following conditions exist:

(1) Funds are available.

(2) The requirement covered by the option fulfills an existing Government need.

(3) Exercising the option is the most advantageous method of satisfying the Government's need, price and other factors considered.

(4) The contractor is not listed in the System for Award Management Exclusions (see FAR 9.405-1).

(5) The contractor's performance under the contract met or exceeded the Government's expectation for quality performance, unless another circumstance justifies an extended contractual relationship.

(6) Exercising the option is in accordance with the terms of the option.

(7) The option price is fair and reasonable, unless already determined as such (*e.g.*, at time of award).

(c) The contract modification, or other written document which notifies the contractor of the exercise of the option, must cite the option clause as authority. If exercising an unpriced or unevaluated option, cite the statutory authority permitting the use of other than full and open competition (see FAR 6.302).

(d) When the contract provides for economic price adjustment and the contractor requests a revision of the price, the contracting officer shall determine the effect of the adjustment on prices under the option before the option is exercised.

536.270-5 Solicitation provisions and contract clauses.

(a) Insert a provision substantially the same as the provision at 552.236-74, Evaluation of Options, in solicitations for fixed-price construction contracts when the solicitation contains an option clause and options will be included in the evaluation for award purposes.

(b) Insert a provision substantially the same as the provision at 552.236-75, Evaluation Exclusive of Options, in solicitations for fixed-price construction contracts when the solicitation includes an option clause and options will not be included in the evaluation for award purposes.

(c) Insert a provision substantially the same as the provision at 552.236-76, Basis of Award-Sealed Bidding Construction, in solicitations for fixed-price construction contracts when contracting by sealed bidding. Use the provision with its Alternate I when the solicitation contains an option clause.

(d) Insert a clause substantially the same as the clause at 552.236-77, Government's Right to Exercise Options, in solicitations and contracts for construction that include options.

Subpart 536.5 - Contract Clauses

536.506 Superintendence by the contractor.

Insert the clause at 552.236-6, Superintendence by the Contractor, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.511 Use and possession prior to completion.

Insert the clause at 552.236-11, Use and Possession Prior to Completion, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.515 Schedules for construction contracts.

Insert the clause at 552.236-15, Schedules for Construction Contracts, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause-

(a) With its Alternate I when the contract amount is expected to exceed the simplified acquisition threshold and a design-bid-build project delivery method will be followed; or

(b) With its Alternate II when the contract amount is expected to exceed the simplified acquisition threshold and a design-build project delivery method will be followed.

(c) With its Alternate III when the contract amount is expected to exceed the simplified acquisition threshold and a construction-manager-as-constructor project delivery method will be followed.

536.521 Specifications and drawings for construction.

Insert the clause at 552.236-21, Specifications and Drawings for Construction, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause with its Alternate I when a design-build project delivery method will be followed—

(a) With its Alternate I when a design-build project delivery method will be followed.

(b) With its Alternate II when a construction-manager-as-constructor project delivery method will be followed.

536.570 Authorities and limitations.

Insert the clause at 552.236-70, Authorities and Limitations, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.571 Contractor responsibilities.

Insert the clause at 552.236-71, Contractor Responsibilities, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause:

(a) With its Alternate I when a design-build project delivery method will be followed.

(b) With its Alternate II when a construction-manager-as-constructor project delivery method will be followed.

536.572 Submittals.

Insert the clause at 552.236-72, Submittals, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause with its Alternate I when a design-build project delivery method will be followed.

536.573 Subcontracts.

Insert the clause at 552.236-73, Subcontracts, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

Subpart 536.6 - Architect-Engineer Services

536.602 Selection of firms for architect-engineer contracts.

536.602-1 Selection criteria.

(a) FAR 36.602-1 requires that agencies include "location in the general geographical area of the project and knowledge of locality of the project" as one of several selection criteria.

(1) Do not use this evaluation factor as a minimum qualification requirement for determining whether a firm is eligible to compete for a proposed project.

(2) This factor must not exceed 5 percent of the total weight of all evaluation criteria. In order to receive the maximum score for this factor, the architect-engineer firm(s) must demonstrate that at least 35 percent of the architect-engineer contract services (based on the total contract price) will be accomplished within the geographical boundaries established for the project.

(3) FAR Deviation. Under an approved class deviation from FAR 36.602-1(a)(5), this factor does not apply to projects that the Chief Architect of GSA determines have national significance.

(4) For procurements that are not project specific, such as indefinite-delivery indefinite-quantity contracts, evaluate based on the geographical area(s) covered by the contract.

(b) The public announcement for a proposed project should identify the general geographical area of the project such as:

(1) A radius in miles or other appropriate unit of measure, or

(2) The Metropolitan Statistical Area, county(ies), or state(s) surrounding the project.

(c) For more information on the Architect Engineer selection process, see the GSA Design Excellence Policies and Procedures at http://gsa.gov/designexcellence.

536.602-2 Evaluation boards.

(a) Architect-engineer evaluation board members must be experts in the fields of architecture, engineering or related design professions, such as landscape architecture, urban design and interior design, except as provided in paragraph (b)(3). Board members must also collectively have expertise in construction, government, and related acquisition matters.

(b) The majority of the board members must be GSA employees. Evaluation boards must not exceed five (5) voting members. If fewer, the board must have an odd number of voting members. The voting members of the evaluation board shall include:

(1) One (1) highly qualified architect or a related design professional employed by GSA.

(2) One (1) highly qualified engineer employed by GSA.

(3) One (1) representative of the Chief Architect of GSA or another GSA design professional.

(4) Consistent with FAR 36.602-2(a), private practitioners (*e.g.*, GSA National Register of Peer Professionals, regional architecture professionals, community representatives).

(c) A maximum of one (1) representative of the client organization(s), at the client's option[, if applicable, may participate as a voting member in the activities of the evaluation board. Although not mandatory, GSA strongly recommends that this voting member be a highly qualified design professional.

(d) A maximum of two (2) non-voting advisors may participate in all activities of the evaluation board except voting. The client organization(s) may have only one (1) non-voting advisor to the board. The GSA may also have one non-voting advisor.

(e) Contracting officers should attend all board meetings and all external communications shall route through the contracting officer.

(f) Other than the individuals appointed under paragraphs (b) through (e), there must be no other advisors, or participants in the official activities of the board.

(g) The selection authority officially appoints the evaluation board members.

(h) Each board member, including advisors, must sign a "Conflict of Interest Acknowledgement and Nondisclosure Agreement" (515.305-71 Actions before releasing proposals.) before the activities of the board commence. No person may serve as a board member if that person or any member of that person's family has any direct financial or employment interest in any of the firms being evaluated. The board member is responsible for identifying any possible conflict of interest once

the competing architect-engineer firms have been identified. If a conflict of interest is identified, the contracting officer shall determine whether to disqualify the member from the board.

536.602-3 Evaluation board functions.

(a) The evaluation board performs the functions described in FAR 36.602-3.

(b) Proposals shall be protected in accordance with FAR 3.104.

(c) Evaluation boards recommend, in order of preference, the most highly qualified architect-engineer firms for the specific project to the selection authority.

(1) Each board member is responsible individually for evaluating and rating the qualifications of each firm being considered following the established evaluation criteria.

(2) The Chairperson of the board must maintain the integrity of the evaluation process and ensure that the final selection report is prepared and submitted to the selection authority.

536.602-4 Selection authority.

(a) The Chief Architect of GSA is delegated as the selection authority for architect-engineer procurements. This authority may be re-delegated in accordance with service-level policy to appropriate officials.

(b) The selection authority reviews the recommendations from the evaluation board which lists in order of preference the most highly qualified architect-engineer firms. If the selection authority does not concur with the recommendation from the evaluation board, the selection authority must provide to the contracting officer a written explanation of the reason.

536.602-70 Architect-Engineer 6 Percent Fee Limitation.

The Architect-Engineer topic page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal contains specific job aids, which must be used to ensure consistent application of the 6 percent fee limitation in accordance with FAR Part 15.404-4(c)(4)(i)(B), for architect-engineer services for public works or utilities for production and delivery of designs, plans, drawings, and specifications.

Subpart 536.70 - Art in Architecture.

536.7000 Scope of Subpart.

GSA's Art in Architecture (AiA) Program is responsible for the overseeing and commissioning of artists to create artworks when designing new Federal buildings and when making substantial repairs and alterations to existing Federal buildings, as appropriate. This subpart prescribes acquisition policies, standards, and procedures for commissioning art for GSA's AiA Program.

536.7001 General.

536.7001-1 Applicability.

(a) Art in architecture contracts are subject to the requirements in other parts of the GSAM, which shall be followed when applicable.

(b) When a requirement for art in architecture contracts in this subpart is inconsistent with a requirement in another part of the GSAM, this subpart 536.70 shall take precedence.

536.7001-2 Authority.

(a) In May 1962, the *Guiding Principles for Federal Architecture* report emphasized that the design of new buildings should provide visual testimony to the dignity, enterprise, vigor, and stability of the American Government. The report also stated that where appropriate, fine art should be incorporated in the designs of Federal buildings, with emphasis on the work of living American artists.

(b) In January 1963, GSA established the AiA Program.

(c) In November 2005, 41 CFR Part 102-77 Art-In-Architecture was published requiring Federal agencies to incorporate fine arts as an integral part of the total building concept when designing new Federal buildings, and when making substantial repairs and alterations to existing Federal buildings, as appropriate.

(d) In accordance with Executive Order (EO) 13934, agencies should prioritize the commission of works of art that portray historically significant Americans or events of American historical significance or illustrate the ideals upon which our Nation was founded. Priority should be given to public-facing monuments to former Presidents of the United States and to individuals and events relating to the discovery of America, the founding of the United States, and the abolition of slavery.

536.7001-3 Methods of contracting.

(a) Contracting officers shall acquire art in architecture services by negotiation, and select sources in accordance with 536.7003.

(b) To the extent practicable, contracting officers should consider the GSA National Artists Registry to conduct market research but may use alternative sources or a combination of these methods.

(c) The advisory multi-step process described in FAR 15.202 may be adapted for use with acquisitions under this subpart. In an advisory process, potential offerors submit information pre-solicitation that allows the Government to advise them about their potential to be viable competitors. No respondent is precluded from competing under an advisory process, but it may and often does result in a more focused and effective competition with long-shot respondents opting out.

(d) A phased evaluation may be adapted for use with acquisitions under this subpart. In a phased evaluation, many offers are evaluated in the first phase under first round evaluation criteria. Fewer offers are considered in one or more subsequent phases on additional pre-specified evaluation criteria. While an initial phase evaluation decision is not a competitive range decision, it does eliminate proposals from the competition, so a pre-award notice to unsuccessful offerors is required. If a proposal is determined to be technically unacceptable, price does not need to be considered. Price must be considered for phases where an offer is eliminated from competition based on a tradeoff approach and prior to award.

(e) All art in architecture contracts shall be fixed-priced contracts only, Final concept design and fabrication shall be fixed price. Unless otherwise justified in writing, all installation of artwork shall be fixed price.

(f) Artwork may be fabricated and installed through the construction contract for the project if the construction contractor will contribute significantly to the successful completion of the artwork.

(g) The total price of the artwork must be consistent with the GSA Art in Architecture (AiA) Policies and Procedures Guide at https://gsa.gov/artinarchitecture.

536.7002 Policy.

GSA contracting activities shall use the policies and guidelines unique to the acquisition of artwork as prescribed in this subpart in conjunction with the GSA Art in Architecture (AiA) Policies and Procedures Guide at https://gsa.gov/artinarchitecture. If there is a conflict between the GSA Art in Architecture (AiA) Policies and Procedures Guide and this subpart, this subpart shall govern.

536.7002-1 Acquisition planning.

(a) The contracting office shall receive a comprehensive project plan which addresses all aspects of project management and acquisition for the associated federal building construction or modernization project before proceeding with an art in architecture procurement. The fine arts officer will ensure all planning documents reference appropriate funding, goals, and milestones for the project.

(b) The Center for Fine Arts, in collaboration with the PBS Office Acquisition Management, may provide prototypical language to include in art in architecture solicitations

(c) An Art in Architecture Panel, as outlined in the *GSA Art in Architecture (AiA) Policies and Procedures* at https://gsa.gov/artinarchitecture, will be instrumental in the acquisition planning process and will be responsible for:

(1) Reviewing artist portfolios and recommending artists for inclusion in the GSA National Artist Registry.

(2) Conducting an inaugural meeting for a project.

(3) Determining the scope of the artwork for a project.

(4) Recommending a group of artists from the Registry for GSA to specifically solicit for a project (in addition to the general solicitation posted in the GPE).

(5) Reviewing and providing critiques, for both artistic merit and long-term maintainability, of an artist's preliminary design concept and final design concept for a project.

536.7002-2 Public announcement.

(a) *Governmentwide point of entry.* The contracting officer shall make the art in architecture synopsis and solicitation available through the System for Award Management Contract Opportunities at https://www.sam.gov.

(b) *Timeline for posting synopsis.* Except as provided in FAR 6.3, the synopsis shall be published at least 15 days before issuance of a solicitation, if the proposed contract action is expected to exceed the simplified acquisition threshold.

(c) *Synopsis content.* The art in architecture synopsis shall include at a minimum:

(1) General description of the project and purpose of the art in architecture acquisition;

(2) Statement that:

(i) Priority should be given to public-facing monuments to former Presidents of the United States and to individuals and events relating to the discovery of America, the founding of the United States, and the abolition of slavery;

(ii) Works of art should be designed to be appreciated by the general public and by those who use and interact with Federal buildings; and

(iii) When a statue or work of art commissioned is meant to depict a historically significant American, the statue or work of art shall be a lifelike or realistic representation of that person, not an abstract or modernist representation;

(3) Magnitude of the project (*i.e.*, construction price range, see FAR 36.204 and 536.204), and the limitations of art in architecture funding (*e.g.*, 0.5 percent of the project total);

(4) Invitation for potential offerors to join the GSA National Artists Registry, providing information to allow GSA to advise artists about their potential to be viable competitors;

(5) Description of the phased evaluation or other evaluation method. All procurements using a phased evaluation must provide clear detail of the evaluation factors which are relevant for each phase and must include pricing;

(6) Technical criteria to be used to evaluate artists for the acquisition;

(7) Request for a price proposal; and

(8) Submission deadline(s) to submit information for consideration.

(d) *Synopsis approval process.* Prior to publication of the art in architecture synopsis, the contracting officer shall coordinate with the project manager and fine arts officer for approval.

(e) *Timeline for posting solicitation.* Except as provided in FAR 6.3, the contracting officer shall allow at least a 30-day response time for receipt of proposals from the date of issuance of a solicitation, if the proposed contract action is expected to exceed the simplified acquisition threshold.

536.7002-3 Competition.

Acquisition of art in architecture services in accordance with the procedures in this subpart will constitute a competitive procedure under FAR Part 6.

536.7002-4 Procedures.

(a) Sources for art in architecture contracts shall be selected in accordance with the procedures in this subpart rather than the solicitation or source selection procedures prescribed in FAR parts 13, 14, and 15.

(b) The solicitation for art in architecture services should be issued only after the architect-engineer services or design-build construction solicitation for the project has been published so that both contract awards can be aligned and the artist and architect-engineer contractor can collaborate during the design phase of the project.

(c) The solicitation must require submission of a technical proposal, which addresses the selection criteria in 536.7003-1(a), and a price proposal, which addresses the line items or options in 536.7001-3(e). Artists on the GSA National Artists Registry may use their registry submission (*i.e.*, GSA Form 7437) as part of their technical proposal.

(d) The statement of work for art in architecture contracts should:

(1) Require the artist to collaborate with the architect-engineer or design-build contractor to avoid any duplication of labor, any removal and reconstruction of building elements affected by an artwork, and any negative impact to the project schedule;

(2) Task the artist to review the building design documents to ensure that art is an integral component of the building project;

(3) Clarify that no discussions between artists and other contractors, tenant agencies, or community representatives shall be considered as a change to the contract unless incorporated by the contracting officer through a modification;

(4) Require a preliminary concept design which complies with the GSA Art in Architecture (AiA) Policies and Procedures Guide at https://gsa.gov/artinarchitecture and includes drawings, models, photographs, or digital renderings and animations, as applicable;

(5) Require a final concept design which complies with the GSA Art in Architecture (AiA) Policies and Procedures Guide at https://gsa.gov/artinarchitecture;

(6) Require site visit(s), if warranted; and

(7) Require the artist to provide professional photographic documentation of the fully completed and installed artwork; information on the artwork's meaning, defining characteristics, fabrication, materials, and installation; and any special maintenance instructions for the artwork.

(8) Stipulate that the artist's final concept design, and fully completed and installed artwork will become the property of GSA.

(e) Art in architecture contract submissions (*e.g.*, preliminary and final concept design) must be reviewed and approved by the contracting officer, in collaboration with the project manager and fine arts officer.

(f) Legal concurrence and head of contracting activity written approval must be provided to terminate, delay or stay an art in architecture contract for any reason; this includes a determination not to exercise a fabrication or installation option.

(g) The fully completed and installed artwork will be accessioned into the GSA Fine Arts Collection.

536.7003 Selection of artists for art in architecture contracts.

536.7003-1 Selection criteria.

(a) GSA will evaluate each potential contractor in terms of its:

(1) Experience - the scale, range, and complexity, including the media, materials, content, style, budget, and market value of the artist's work;

(2) Past Performance - previous work on contracts with Government agencies and private industry in terms of cost control, quality of work, and compliance with performance schedules;

(3) Capacity - the ability to accomplish the work in the required time;

(4) Overall Approach - brief written statement of an overall approach to the project, including the extent to which the approach is consistent with the standards publicly announced under 536.7002-2(c)(2); and

(5) Total Evaluated Price - for the design, development, fabrication and installation of the artwork.

(b) The combined weight of the technical evaluation factors shall be compared with price, *e.g.* significantly more important than price, approximately equal to price, significantly less important than price.

(c) The specific standards for each selection criterion may be tailored to suit the unique conditions of a particular project.

(d) The selection authority must approve the relative weights and standards established for the selection criteria before the selection process commences.

536.7003-2 Evaluation board.

(a) Art in architecture evaluation board members should collectively have distinct expertise relevant to the project, including knowledge of artwork and its long term care, the architect-engineer design philosophy for the project, the programmatic and functional needs of the Federal tenant, and the character of the community in which the project is located.

(b) Evaluation boards shall not exceed five (5) voting members.

(c) A maximum of one (1) representative of the tenant organization(s), at the tenant's option, may participate as a voting member in the activities of the evaluation board.

(d) Evaluation boards shall not exceed two (2) non-voting advisors. The non-voting advisors may include the same individuals from the Art in Architecture Panel.

(e) Consistent with FAR 7.503(c)(12)(ii), private practitioners (*e.g.*, GSA National Register of Peer Professionals, regional art professionals, community representatives) may participate as non-voting advisors in the activities of the evaluation board.

(f) Other than the individuals appointed under paragraphs (a) through (e), there must be no other advisors or participants in the official activities of the board.

(g) The selection authority officially appoints the evaluation board members.

(h) Each board member must sign a "Conflict of Interest Acknowledgement and Nondisclosure Agreement" (Figure 515.3-1) before the activities of the board commence. No person may serve as a board member if that person or any member of that person's family has any direct financial or employment interest in any of the artists being evaluated. The board member is responsible for identifying any possible conflict of interest once the competing artists have been identified. If a conflict of interest is identified, the contracting officer shall determine whether to disqualify that member from the board.

536.7003-3 Evaluation board functions.

(a) The evaluation board performs the functions described in 536.7003.

(b) Proposals shall be protected in accordance with FAR 3.104.

(c) The contracting officer may determine when and whether to share pricing proposals with the board.

(d) Evaluation boards recommend, in order of preference, the most highly rated proposal(s) for the specific project to the selection authority. At the request of the contracting officer, the board may provide a recommendation for trade off decisions.

(1) Each board member is responsible individually for evaluating and rating the qualifications of each artist being considered following the established evaluation criteria.

(2) The Chairperson of the board shall maintain the integrity of the evaluation process and ensure that the final selection report is prepared and submitted to the selection authority.

536.7003-4 Selection authority.

(a) The Chief Architect of GSA is delegated as the selection authority for art in architecture procurements. This authority may be re-delegated in accordance with service-level policy to appropriate officials.

(b) The selection authority reviews the recommendations from the evaluation board which lists in order of preference the most highly rated proposal(s). If the board has not considered price in its recommendations, the selection authority shall consider price as well as the board recommendation. If the selection authority does not concur with the recommendation from the evaluation board, the selection authority must provide for the contracting officer a written explanation of the reason.

(c) If the selection authority does not select a proposal that is consistent with the standards set forth under 536.7002-2(c)(2), the selection authority shall submit a report to the GSA Administrator explaining the reason for the selection despite its noncompliance with these standards.

536.7003-5 Evaluation process.

(a) As part of proactive market research, the evaluation board, in collaboration with the contracting officer, may review the existing GSA National Artists Registry to identify qualified sources to solicit for the art in architecture acquisition.

(b) Proposals received by the solicitation deadline must be evaluated against the evaluation criteria in 536.7003-1(a).

(c) Based on the ratings of each submission against the evaluation criteria, the contracting officer may follow an advisory multi-step or a phased evaluation, or establish a competitive range composed of the most highly rated proposals.

(1) Oral presentations, similar to interviews, by the highest rated artists may be conducted by the government to compliment the written information or streamline the selection process (see FAR 15.102).

(2) If an offeror is eliminated from further consideration for award, written notice of this decision shall be provided in a timely manner (see FAR 15.503).

536.7003-6 Notification of award.

(a) The contracting officer shall post timely notice of the award through the GPE.

(b) Pursuant to FAR 15.503, the contracting officer shall provide notification to unsuccessful artist(s) within 3 days after contract award or any time an offer is eliminated from the competition with the reason(s) the artist's proposal was not accepted and, for notifications after contract award, an explanation of the final artist selection.

Subpart 536.71 - Construction-Manager-as-Constructor Contracting

536.7101 Scope of Subpart.

This subpart describes policies and procedures for the use of the CMc project delivery method.

536.7102 Definitions.

As used in this subpart—

"CMc Contingency Allowance (CCA)" means an allowance for the exclusive use of the construction contractor to cover reimbursable costs during construction that are not the basis of a change order. These costs could include estimating, scheduling, and planning errors in the final Estimated Cost of the Work (ECW) or other contractor errors.

"Cost" means allowable costs in accordance with FAR Part 31.

"Cost of Performance" means the final sum of cost of the construction work and fee for the construction work.

"Early Work Package" means a set of construction activities that can be clearly defined and separately performed from the remainder of the construction work. Demolition is an example of an early work package.

"Estimated Cost of the Work (ECW)" means the estimated cost of the construction work, not including home office overhead.

"Fee for the Construction Work" means the amount established in the construction contract for the contractor's profit and home office overhead costs, as described in FAR part 31, for the construction work.

"Guaranteed Maximum Price (GMP)" means the sum of the ECW, CCA, and the fee for the construction work.

536.7103 Construction Contract Solicitation Procedures.

(a) *Procurement Timing.* The request for proposals should be issued only when the project design requirements have been developed to a sufficient degree of specificity to permit competition with meaningful pricing for the ECW. The contracting officer should obtain written documentation for the contract file from the project manager that the project design requirements satisfy the condition stated in this section.

(b) *Proposal Evaluation.*

(1) *Evaluation Factors.*

(i) Except as provided in paragraph (ii) of this subsection, the solicitation shall provide that the technical evaluation factors, when combined, shall be considered significantly more important than cost or price.

(ii) Subject to the approval of the HCA, the weighting of the technical evaluation factors and cost or price may be different than that required under paragraph (i) of this subsection. Any such written approval shall be documented in the contract file.

(2) *Price Realism.* The contracting officer shall provide for a price realism analysis in the solicitation for the purpose of assessing, among others, whether an offeror's price reflects a lack of understanding of the contract requirements or risk inherent in an offeror's proposal. The solicitation shall provide offerors with notice that the agency intends to perform a price realism analysis.

(3) *Total Evaluated Price.* For purposes of evaluation, the total evaluated price shall include the firm-fixed-price for design phase services, the construction work GMP option(s), and any other fixed-priced line items. If advance pricing elements such as extended overhead rates and daily delay rates are proposed, those shall also be evaluated as part of the total evaluated price.

(c) *Government Budget (e.g. Prospectus) Information.* Subject to the approval of the contracting director, the solicitation may include information contained or referenced within a prospectus submission to Congress for a project.

536.7104 Construction Contract Award.

In accordance with FAR 4.1001, the contracting officer shall use the SF 1442 to identify the services or supplies to be acquired as separately identified line items on a unit price or lump sum basis including the design phase services, the construction work GMP option(s), and any other work not included in the previously identified items.

536.7105 Construction Contract Administration.

536.7105-1 Responsibilities.

(a) During all phases of the project, the architect-engineer contractor that is providing design services under a separate contract with GSA is contractually responsible for the design in the same manner as under a traditional, design-bid-build project delivery method.

(b) The design phase services provided by the construction contractor can include, but are not limited to, scheduling, systems analysis, subcontractor involvement, cost-estimating, constructability reviews, cost-reconciliation services, and market analysis.

(c) The scope of work should task the construction contractor with reviewing the design documents and providing pricing information at various defined milestones during the design phase.

(d) During the design phase, the architect-engineer contractor and the construction contractor shall collaborate on the design and constructability issues. The goal of this collaboration is to establish a final ECW that does not exceed the original target ECW.

(e) No discussions between the architect-engineer contractor and the construction contractor shall be considered as a change to the construction contract or design contract unless incorporated by the contracting officer through a modification.

536.7105-2 Guaranteed Maximum Price.

(a) *General.*

(1) *GMP.*

(i) The GMP is the ceiling price described by FAR 16.403-2.

(ii) The GMP is established at contract award. The GMP may be established as one option or as multiple options through separate line items, with a separate GMP amount for each line item.

(iii) The GMP is subject to adjustment under various standard contract clauses, including the changes clause, differing site conditions clause, and suspensions clause.

(iv) The contract file shall contain all documents to support any scope changes including a separate analysis to document the rationale for any upward or downward adjustment to the GMP.

(2) *ECW.*

(i) The proposed ECW incorporated at construction contract award is the target ECW.

(ii) The final ECW should be established prior to completion of the design (i.e. 100 percent construction documents), generally no earlier than completion of 75 percent construction documents.

(iii) The contracting officer shall negotiate the final ECW and incorporate it into the construction contract through a bilateral modification prior to exercising the GMP option.

(3) *CCA.*

(i) The CCA type of allowance may only be used as part of the CMc project delivery method and should not be confused with other types of allowances that may be used with other construction project delivery methods.

(ii) The CCA provides for a contingency relative to a fixed percentage of the ECW, except for the requirements at paragraph (c)(3) of this subsection. The CCA at time of GMP option exercise is subject to negotiation between the contractor and the contracting officer and may be different than the amount at time of contract award.

(iii) The amount of the CCA will depend on the status of design and construction, as well as the complexity and uncertainties of the project. Early phase designs usually include less defined scope and, accordingly, may require a higher initial CCA at time of contract award. Later phase designs may remove uncertainties and reduce risk, allowing for a lower CCA at time of GMP option exercise.

(iv) The CCA shall not exceed 3 percent of the ECW, unless approved in writing by the HCA for a higher amount not to exceed 5 percent of the ECW.

(4) *Fee for the Construction Work.*

(i) The fee may be proposed per phase of construction if each phase is a separate option.

(ii) At time of proposal submission, the offeror shall submit a list of the items included within the offeror's home office overhead.

(iii) At time of proposal submission, the fee elements may be expressed as a percentage of the ECW, but shall be converted to a fixed amount prior to executing the GMP option.

(iv) The fee for the construction work is not increased or decreased based on fluctuations in the actual costs of the work. The fee may, however be adjusted for changes that are the basis for a change order, including scope changes, differing site conditions, and Government-caused delays.

(v) Any fee for the construction work associated with a change order shall not be driven by a fixed percentage. The contracting officer should determine whether the profit included, if any, in a contractor's proposal is reasonable, see FAR 15.404-4 for additional guidance. The limitations of GSAR 552.243-71, especially markups, still apply for any changes.

(b) *Design Phase.*

(1) The GMP may be bilaterally modified upward during the design phase only for approved additions to the scope of work.

(2) The GMP may be bilaterally modified downward during the design phase for deletions to the scope of work.

(c) *Exercising the GMP Option.*

(1) The GMP option shall not be exercised until the final ECW is established.

(2) If the sum of the final ECW, CCA, and fee for construction work is less than the GMP as established at contract award or as adjusted in accordance with FAR Part 43, then the contracting officer shall adjust the GMP downward accordingly through a bilateral modification to exercise the GMP option.

(3) If the sum of the final ECW, CCA, and fee for the construction work is greater than the GMP as established at contract award or as adjusted in accordance with FAR Part 43, then the contracting officer should work with the contractor to identify measures to reduce the overall GMP. Such measures may include reducing the CCA, reducing the fee, or as a last resort, reducing the scope of the project.

(4) The GMP option shall not be exercised if the final ECW, CCA, and fee for the construction work is greater than the GMP as established at contract award or as adjusted in accordance with FAR Part 43.

(d) *Construction Phase.*

(1) After award of the GMP option, changes in scope may be issued as an adjustment to the GMP or as a stand-alone firm-fixed-price line item.

(2) Any changes in scope after award of the GMP option shall be reflected by a written modification to the construction contract in accordance with FAR Part 43.

(e) *Early Work Package.*

(1) Early work packages (see 536.7105-7) may be used in the procurement that are priced separately or included in the GMP option.

(2) If any early work package exercised reduces the scope of the construction services under the GMP option, the ECW shall be reduced, and the CCA, fee for the construction work, and GMP shall be adjusted accordingly.

(f) *GMP Adjustment.*

(1) Any changes to the total GMP or individual parts of the GMP must be incorporated in the contract through a modification.

(2) Any modification that changes the GMP, including modifications for early work packages and fixed price conversions, must clearly state that it includes a change to the GMP and describe the changes to the individual parts of the GMP components in the modification.

(3) Any modification that changes the total GMP, or individual parts of the GMP, is subject to the requirement for a prenegotiation objectives memo and price negotiation memo, including fair and reasonable price determination, per FAR 15.406.

(4) The contracting officer should consult other members of the acquisition team, including the project manager, to analyze and justify any adjustments to the total GMP, or individual parts of the GMP.

536.7105-3 Accounting and Auditing Requirements.

(a) *Cost Accounting Standards.*

(1) Except as provided in paragraph (a)(2) of this subsection or through an exemption at FAR 30.201-1, construction contracts under the CMc project delivery method are subject to the cost accounting standards (CAS) identified in FAR Part 30.

(2) The contracting officer may request a CAS waiver in accordance with the requirements at FAR 30.201-5 and 530.201-5.

(3) If CAS applies, the contract clauses identified at FAR 30.201-4 shall be included in the contract.

(4) If a CAS waiver is granted or if CAS does not apply, the contract clause identified at 536.7107(b) shall be included in the contract.

(b) *GMP Option Accounting.*

(1) Open Book Accounting. Open book accounting shall be followed for financial tracking of all contract line items that are awarded on a GMP basis. Such financial tracking may be accomplished through an audit in accordance with paragraph (c) of this section.

(2) Payments and Reconciliation. All payments shall be reconciled with the open book accounting records and the schedule of values adjusted, as appropriate. Reconciliation shall occur each month and should be coordinated with monthly progress payments. The reconciliation shall be documented in the contract file.

(c) Auditing Requirements. In accordance with GSAM 542.102(a), for any audit services required by this Subpart 536.71, the contracting officer shall first request such services be performed by or through the Assistant Inspector General for Auditing or the Regional Inspector General for Auditing. If the Office of Inspector General declines to perform such an audit, the contracting officer may obtain audit services from a certified public accountant.

536.7105-4 Value Engineering.

In accordance with FAR 48.202, the clause at FAR 52.248-3 Value Engineering-Construction does not apply to incentive contracts. Accordingly, value engineering, as that term is used and described in FAR Part 48, shall not apply to the CMc project delivery method described in this subpart.

536.7105-5 Shared Savings Incentive.

(a) General. The incentive is a shared portion of the difference between the final GMP and the final cost of performance. Cost reductions may be realized by the construction contractor as a result of innovations and efficiencies during the construction phase, such as increased labor productivity or strong material subcontract negotiations.

(b) Share Ratio.

(1) Except as provided in paragraph (2) of this subsection, the share ratio for the construction contractor shall range from 30 percent to 50 percent. The share ratio for the construction contractor shall not exceed 50 percent. The complexity of the project and the amount of risk to the construction contractor should be considered when determining the ratio. A project with greater risk to the construction contractor should reflect a greater share ratio for the construction contractor.

(2) Subject to the approval of the HCA, the share ratio may be different than that required under paragraph (b)(1) of this subsection. Any such written approval shall be documented in the contract file.

(c) Incentive Calculation. The incentive amount is calculated in accordance with the clause at 552.236-79 Construction-Manager-As-Constructor.

536.7105-6 Allowances.

(a) Establishing a separate allowance in addition to the CCA is only permitted pursuant to a written determination approved by the contracting director supporting the use of any such allowance.

(b) The written determination for a separate allowance in addition to the CCA shall consider the following:

(1) Alternative contracting structures, such as a separate GMP line item or performing the work as part of the GMP option, and

(2) Ensuring conformance with all applicable rules and procedures relating to allowances, including FAR 11.702.

536.7105-7 Early Work Packages.

(a) Construction services for an early work package must be within the scope of the overall contract.

(b) Early work packages may be part of the initial procurement as a separately priced line item, or the Government and the construction contractor may agree to develop an early work package after award, typically identified toward the beginning of the project.

(c) *Early Work Packages Developed After Award.*

(1) The parties shall bilaterally agree to the scope, schedule, and pricing for any such early work package, and the contract shall be modified in accordance with FAR Part 43.

(2) If any such early work package reduces the scope of the construction services under the GMP option, the ECW shall be reduced, and the CCA, fee for the construction work, and GMP shall be adjusted accordingly.

(3) Any modification to the contract for an early work package is subject to the requirement for a prenegotiation objectives memo and price negotiation memo, including fair and reasonable price determination, per FAR 15.406.

(d) Early work packages that are firm-fixed-price are not subject to open book accounting, a shared savings incentive, or the need for determination of final settlement.

536.7105-8 Conversion to Firm-Fixed-Price.

(a) At any time after completion of 100 percent construction documents, the Government and the construction contractor may bilaterally convert the whole contract to firm-fixed-price.

(b) Conversion to firm-fixed-price may occur after the contingency risks, to be covered by the CCA, have been sufficiently reduced in the best interest of the Government. See FAR 16.103(b) for additional guidance for assessing risk management, profit motive, and timing considerations.

(c) Conversion to firm-fixed-price is only permitted pursuant to a written determination from the contracting officer to the contract file supporting the conversion. The contracting officer should consult other members of the acquisition team, including the project manager, to analyze and justify the conversion.

(d) The contracting officer shall not agree to a firm-fixed-price in excess of the GMP.

(e) In accordance with 536.7105-3(c), the contracting officer shall obtain an independent audit of the construction contractor's costs incurred in the performance of the contract to date.

(f) When evaluating the construction contractor's proposal for firm-fixed-price definitization, the contracting officer should compare the anticipated final cost to the firm-fixed-price being proposed. It may be reasonable for the construction contractor to include a contingency for assuming the risk associated with agreeing to the firm-fixed-price. The contracting officer should evaluate this contingency to ensure that the proposed amount reasonably reflects the remaining risks being assumed by the construction contractor. This evaluation may be informed by the history of the project, the balance of the CCA, and other factors.

(g) The modification to convert to a firm-fixed-price is subject to the requirement to obtain cost and pricing data unless one of the exceptions in FAR 15.403-1 applies.

(h) The modification to convert to a firm-fixed-price is subject to the requirement for a prenegotiation objectives memo and price negotiation memo, including fair and reasonable price determination, per FAR 15.406.

(i) Upon converting to a firm-fixed-price, the contract is no longer subject to open book accounting, a shared savings incentive, or the need for determination of final settlement.

536.7106 Construction Contract Closeout.

Unless the contract has been converted to a standard firm-fixed-price contract (see 536.7105-8)—

(a) The contracting officer shall ensure that the construction contractor's proposal for final settlement is accurate and reliable in accordance with the open book accounting practices of the contract.

(b) In accordance with 536.7105-3(c), the contracting officer shall obtain an independent audit of the construction contractor's costs.

536.7107 Contract Clauses (FAR DEVIATION).

(a) *FAR deviation*. GSA has a deviation from FAR 52.216-17 that allows use of the clause 552.236-79 in lieu of the FAR clause at 52.216-17. Insert a clause substantially the same as the clause at 552.236-79, Construction-Manager-As-Constructor, in solicitations and contracts if construction, dismantling, or removal of improvements is contemplated when a CMc project delivery method will be followed in lieu of the FAR clause at 52.216-17.

(b) Insert a clause substantially the same as the clause at 552.236-80, Accounting Records and Progress Payments, in solicitations and contracts if construction, dismantling, or removal of improvements is contemplated when a CMc project delivery method will be followed and cost accounting standards do not apply. This clause is used when the clauses at FAR 52.230-2 Cost Accounting Standards, FAR 52.230-3 Disclosure and Consistency of Cost Accounting Practices, and FAR 52.230-6 Administration of Cost Accounting Standards do not apply.

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PART 537 - SERVICE CONTRACTING

Sec.

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PART 537 - SERVICE CONTRACTING

Subpart 537.1 - Service Contracts—General

537.101 Definitions.

"Contracts for building services" means contracts for services relating to the operation and maintenance of a building (e.g., janitorial, window washing, snow removal, trash removal, lawn and grounds care), inspection, maintenance, repair or replacement of building systems or equipment (e.g., elevators, air-conditioning, heating systems, and protection or guard service).

537.102-70 Application of performance-based acquisition (PBA) policy for leases and leasehold interests in real property.

GSA contracting activities are not required to use PBA methods for leases and leasehold interests in real property. However, contracting activities are not precluded from using PBA methods when contracting for leases or leasehold interests in real property if using PBA best meets the Government's needs.

537.104 Personal Services Contracts.

(a) *General.* GSA is generally not authorized to award personal service contracts. Personal services contracts are often triggered by perception, in particular when it is hard to differentiate between contractor employees and Federal employees. GSA contracting activities should avoid engaging in personal services contracts as described in FAR 37.104, unless excepted (see paragraph (b)), and work to establish and administer contracts such that the risk of the appearance of personal service contracts is mitigated and documented in the file. For more information on how to administer service contracts and avoid inappropriate personal service contract perception, see 537.504.

(b) *Exceptions.* There are limited exceptions in which GSA may actively engage in personal service type contracts:

(1) A contracting officer may enter into a personal services contract if the acquisition is being conducted on behalf of another agency who has statutory authority to enter into personal service contracts specific to that acquisition The contracting officer must obtain the written concurrence of the Office of Legal Counsel and the Contracting Directors prior to issuing a solicitation.

(2) A contracting officer may enter into a personal services contract for GSA use only after obtaining the written concurrence of the Office of Legal Counsel and of the Contracting Director. See FAR 37.104(e) and GSA Order ADM 5000.4, Office of General Counsel Legal Review.

(3) GSA has authority to enter into contracts for personal services for Information Technology, per 40 USC 321(c)(1)(A)(iii), only when the contract is less than one year in duration, after meeting the requirements above.

(c) *Delegating Responsibilities.* Contracting officers must ensure any contracting officer's representative (COR) delegation letter includes language regarding personal service contract responsibilities. Standard delegation language can be found on GSA's Acquisition Portal at https://insite.gsa.gov/acquisitionportal.

537.106 Funding and term of service contracts.

517.101 identifies GSA-specific statutory authority for multiyear contracts for certain services.

537.110 Contract clauses.

(a) *Contracts for building services*. Except for solicitations and contracts for building services placed under FAR subpart 8.7, insert the clause at 552.237-71, Qualifications of Employees, in solicitations and contracts for building services that are anticipated to exceed the simplified acquisition threshold.

(b) *Contracts for guard services*. Insert the clause at 552.237-72, Prohibition Regarding "Quasi-Military Armed Forces," in solicitations and contracts for guard services.

Subpart 537.2 - Advisory and Assistance Services

537.201 Definitions.

As used in this subpart—

Evaluation or analysis of a proposal means proposal evaluation as described in FAR 15.305. It includes: Cost or price evaluation using cost or price analysis, as defined in FAR 15.404.

Proposal means a proposal submitted for an initial contract award. (See FAR 37.203(d)). It does not include proposals submitted after contract award, such as value engineering proposals, proposals related to contract modifications, claims, or other contract administration actions.

Readily available means that employees with the requisite training and capability are employed by the agency, capable of handling additional work relating to other duties as assigned by management, and that the travel and other costs associated with using covered personnel does not exceed the projected cost of a contract for evaluation and analysis services.

Requisite training and capability means training and capability necessary to successfully perform the task or contract at issue in the time and in the manner required. It may include relevant experience, recent performance of work of similar size and scope, specific training and other factors that the contracting officer determines are necessary to the successful performance of the task or contract at issue.

537.204 Guidelines for determining availability of personnel.

(a) *Authority*. The contracting officer is authorized to make the determinations required by FAR 37.204 unless the HCA designates another agency official.

(b) *Policy*. The contracting officer, or the HCA's designee, must make the determination whether GSA personnel with the requisite training and capabilities are readily available to perform the evaluation or analysis before issuing a solicitation which includes evaluation and analysis services (see FAR 37.205).

(c) *Identifying qualified personnel*. The contracting officer, or the HCA's designee, must base the determination on information received in response to a survey conducted as follows:

(1) If the estimated cost of evaluation and analysis services to be obtained under a contract or order is less than the micropurchase threshold, the administrative cost and time associated with conducting the search and other costs, such as travel, will likely exceed the cost of providing the services under the contract or order. In this case, the survey need only include the appropriate Assistant Commissioner, Assistant Regional Administrator, or designee within the contracting organization at the location where the services are to be performed.

(2) If the estimated cost of the evaluation and analysis services to be obtained under a contract or order is expected to exceed the micropurchase threshold, the survey must include all of the following:

(i) The appropriate Assistant Commissioner, Assistant Regional Administrator, or designee at the location where the services are to be performed, and managers within other GSA Regions and Central Office of the contracting organization.

(ii) Other Federal agencies that are reasonably expected to have covered personnel with the requisite training and capability at the location where the services are to be performed.

(d) *Decisions on availability of personnel*. The contracting officer, or the HCA's designee, should request that decisions on availability be made by a management official at a level higher than the employee's immediate supervisor.

(e) *Documentation*. The determination required by FAR 37.204 may be incorporated in the acquisition plan or made a part of another document prepared in the normal course of a procurement action. The file should, at a minimum, describe:

(1) *Who was surveyed and a summary of the responses received;*

(2) *The circumstances requiring the use of outside evaluators;*

(3) *Actions GSA will take to avoid organizational or other conflicts of interest under FAR 9.5; and*

(4) *The competitive relationship between prospective offerors, including proposed subcontractors, and the prospective evaluator(s).*

(f) *Indefinite delivery contracts for evaluation and analysis services*. You may issue an indefinite delivery contract for evaluation and analysis services if there is a reasonable expectation that there will be occasions when personnel with the requisite training and capabilities will not be readily available to perform the evaluation and analysis services covered by the contract.

(1) Before issuing a solicitation for an indefinite delivery contract, the appropriate agency official should first assess the ability of the Federal Supply Schedule Program to support the need and consider manpower and workload projections

over the proposed contract period. This should help avoid unnecessarily incurring the cost of soliciting offers and awarding a contract. Document the acquisition file accordingly.

(2) The appropriate agency official should establish procedures for making determinations regarding particular evaluations before orders are placed under the contract.

537.270 Contract clause.

Insert the clause at 552.237-73, Restriction on Disclosure of Information, in solicitations and contracts for proposal evaluation and analysis services.

Subpart 537.5 - Management Oversight of Service Contracts

537.504 Contracting officials' responsibilities.

(a) Below is a non-exhaustive list of techniques the acquisition team can use to effectively manage and oversee service contracts, while avoiding the appearance of prohibited personal service contracts described in FAR 37.104(d)—

(1) Identification. Have contractor staff clearly identify themselves as contractors in both email signature lines and identity badges.

(2) Communication of roles and responsibilities. During the contract kickoff meeting let the contractor and their personnel know how work assignments will be communicated and who should be included in the communication.

(3) Clear terms and conditions. Clearly define performance roles, expectations, and deliverables in the terms and conditions of the contract. Have terms and conditions specify that the contractor supervise their staff onsite when feasible.

(4) Contract type. Firm fixed price (FFP) contract type is preferable for work performed that could have the appearance of personal services, since other contract types require more Government oversight which could lead to the appearance of personal services; however all contract types are susceptible to perceptions that can prompt personal services.

(5) Limit who can assign work. Contractor assignments should be communicated by the contracting officer, or COR, directly to one representative for the contractor (such as a contractor's team lead or program manager).

(6) Avoid ad hoc work assignments. Avoid ad hoc work assignments which can create a personal services relationship, and may also cause "scope creep" to the contract, which places the Government at risk of a future claim.

(7) Do not provide managerial or administrative support to contractors. To avoid the appearance of personal services, do not approve contractor staff's performance plans or leave.

(8) Computer system access. Avoid personal services by limiting the electronic systems, and roles within systems, that contractors may have access to (*e.g.*, do not provide approval access in any system in which there may be an obligation of funds, such as a contract writing system).

Subpart 537.6 - Performance-based Acquisition

537.601 General.

Contracting Officers are encouraged to use the Steps to Performance-Based Acquisition (SPBA) available at https://buy.gsa.gov/spba.

Subpart 537.70 - Unmanned Aircraft Systems (UAS) Services

537.7001 Definitions.

As used in this subpart—

"Adversary country", as defined in Executive Order 13981, means the Democratic People's Republic of Korea, the Islamic Republic of Iran, the People's Republic of China, the Russian Federation, or, as determined by the Secretary of Commerce, any other foreign nation, foreign area, or foreign non-government entity engaging in long-term patterns or serious instances of conduct significantly adverse to the national or economic security of the United States.

"Drones", terminology commonly used to refer to unmanned aircraft, unmanned aircraft system, or covered unmanned aircraft system—

(a) “Unmanned Aircraft”, as defined in 14 CFR Part 1, means an aircraft operated without the possibility of direct human intervention from within or on the aircraft. Unmanned Aircraft is synonymous with UAS.

(b) "Unmanned Aircraft System", as defined in 14 CFR Part 1, means an unmanned aircraft and its associated elements (including communication links and the components that control the unmanned aircraft) that are required for the safe and efficient operation of the unmanned aircraft in the airspace of the United States. UAS is commonly referred to as "drones".

(c) "Covered Unmanned Aircraft System (UAS)", as defined in Executive Order 13981, means any UAS that:

(1) is manufactured, in whole or in part, by an entity domiciled in an adversary country;

(2) uses critical electronic components installed in flight controllers, ground control system processors, radios, digital transmission devices, cameras, or gimbals manufactured, in whole or in part, in an adversary country;

(3) uses operating software (including cell phone or tablet applications, but not cell phone or tablet operating systems) developed, in whole or in part, by an entity domiciled in an adversary country;

(4) uses network connectivity or data storage located outside the United States, or administered by any entity domiciled in an adversary country; or

(5) contains hardware and software components used for transmitting photographs, videos, location information, flight paths, or any other data collected by the UAS manufactured by an entity domiciled in an adversary country.

537.7002 Policy.

(a) Executive Order (E.O.) 13981, "Protecting the United States From Certain Unmanned Aircraft Systems", states that it is the policy of the United States to prevent the use of taxpayer dollars to procure UAS that present unacceptable risks and are manufactured by, or contain software or critical electronic components from, foreign adversaries.

(b) GSA Information Technology (IT) Security Procedural Guide CIO-IT Security-20-104, "Drones/Unmanned Aircraft Systems (UAS) Security" outlines the process for ensuring UAS security at GSA. The Chief Information Office (CIO) policies are available at https://insite.gsa.gov.

(c) GSA Order OAS 5615.1, "GSA Unmanned Aircraft Systems (UAS) Policy" describes the policy for GSA's ownership and use of UAS. GSA Orders are available at https://gsa.gov/directives-library.

537.7003 General.

(a) *GSA employee use of UAS*. GSA is prohibited from owning and procuring UAS (commonly referred to as "drones") for use by GSA employees.

(b) *GSA-funded acquisitions that use UAS*. GSA may contract for services that use ancillary UAS. For any contract, order, agreement, purchase card transaction, or purchasing mechanism used for GSA-funded acquisitions for services that use ancillary UAS services, the requirements office must.

(1) Specify in the contract language that:

UAS will not be owned or used exclusively by GSA; and,

(The contractor will comply with the requirements of all applicable FAA regulations including but not limited to 14 CFR Part 107 "Small Unmanned Aircraft Systems" (https://www.ecfr.gov/current/title-14/chapter-I/subchapter-F/part-107).

(2) Ensure that the UAS is not a covered UAS.

(3) Ensure all UAS are registered and authorized for use through the process detailed in the GSA Information Technology (IT) Security Procedural Guide CIO-IT Security-20-104, "Drones/Unmanned Aircraft Systems (UAS) Security".

UAS registered and authorized for use. UAS that is registered and authorized for use can be found at the GSA Enterprise Architecture Analytics and Reporting (GEAR) application (https://ea.gsa.gov/). Utilizing GEAR will ensure the procurement does not violate the prohibition at 537.7002(a).

Request for new UAS. For new UAS not already registered and authorized for use in the GEAR application (https://ea.gsa.gov/), follow the instructions in the "GSA IT Security Procedural Guide CIO-IT Security-20-104, "Drones/Unmanned Aircraft Systems (UAS) Security".

(4) Review and incorporate the applicable sections, requirements, and best practices of "GSA IT Security Procedural Guide CIO-IT Security-20-104, "Drones/Unmanned Aircraft Systems (UAS) Security" in the statement of work or equivalent. This includes:

(i) UAS Operator Approval and Recertification;

(ii) Installation and use of UAS software and firmware;

(iii) Securing UAS operations;

(iv) UAS data storage and transfer; and,

(v) Approval of UAS platforms.

(5) Coordinate pre-award solicitations with IS-Contracts-Review@gsa.gov for GSA IT review and approval of the applicable sections, requirements, and best practices for the ancillary UAS services, see also (b) for CIO coordination involving the acquisition of information technology.

(6) Review and incorporate the applicable sections and requirements of GSA Order OAS 5615.1, "Unmanned Aircraft Systems (UAS) Policy".

(c) *Assisted acquisitions that use UAS*. The requesting agency is responsible for ensuring that its UAS policy and operational guidance has been established and is followed. As the servicing agency, the GSA contracting officer should confirm the existence of the requesting agency's policy and operational guidance by documenting it in the interagency agreement or through a separate document included in the contract file.

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PART 538 - FEDERAL SUPPLY SCHEDULE CONTRACTING

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PART 538 - FEDERAL SUPPLY SCHEDULE CONTRACTING

538.000 Scope of part.

(a) This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule (FSS) program. GSA may delegate certain responsibilities for other agency acquisition programs as they relate to the establishment of individual federal supply schedules.

(b) The authority of other agencies to award FSS contracts can only be accomplished through delegation from GSA. An agency delegated authority by GSA to award contracts under the FSS program is responsible for complying with GSA regulations and policies that apply to the FSS program, unless an exception is approved by GSA (see 538.001).

538.001 General.

If a policy, regulation, or clause is identified as not applicable or in conflict to what is delegated by GSA, the delegated agency shall submit a determination and finding supporting the rationale as to why it does not apply, or is in conflict, in accordance with the delegation that was already received from GSA. The determination and finding must be approved by the GSA Senior Procurement Executive, the Commissioner of the Federal Acquisition Service (FAS) or a designee.

Subpart 538.2 - Establishing and Administering Federal Supply Schedules

538.201 Coordination requirements.

GSA will coordinate with other agencies who administer FSS contracts specific to their delegated authority (i.e., the Department of Veterans Affairs). Coordination will ensure adherence to policies and procedures at the program level, such as providing guidance on approved exceptions (see 538.001).

538.270 Solicitation, evaluation, and award of Federal Supply Schedule (FSS) contracts.

538.270-1 Evaluation of offers without access to transactional data.

(a) *Applicability*. Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is included in the solicitation (see 515.408).

(b) When offerors have commercial catalogs, negotiate concessions from established catalogs, including price and non-price terms and conditions.

(c) 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.

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

(e) 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.

(f) 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.

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

538.270-2 Evaluation of offers with access to transactional data.

(a) *Applicability.* Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is not included in the solicitation (see 515.408).

(b) Contracting Officers shall utilize the techniques in FAR 15.404 when evaluating pricing for MAS offers.

(c) Order of preference. When evaluating MAS offers and establishing negotiation objectives, Contracting Officers shall–

(1) Use the following data that is already readily available in accordance with FAR 15.404-1(b)(2)(ii):

(i) Prices paid information on contracts for the same or similar items.

(ii) Contract-level prices on other MAS contracts or other government-wide contracts for the same or similar items.

(iii) Commercial data sources that consolidate and normalize prices offered by commercial vendors to the general public to compare prices for the same or similar items.

(2) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in 538.270-2(c)(1), perform market research to compare prices for the same or similar items in accordance with FAR 15.404-1(b)(2)(vi).

(3) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in 538.270-2(c)(1) or (2), perform an analysis of data other than certified cost or pricing data (as defined at FAR 2.101) provided by the offeror in accordance with FAR 15.404-1(b)(2)(vii).

538.270-3 Use of clause fill-in information.

(a) *General.* The fill-in information required by GSAR 538.273(e) outlines the timeframe that orders must be completed and provides for—

(1) The exercise of task and delivery order options after the FSS contract ordering period, if those options were evaluated as part of the initial award and the order is completed within the timeframe outlined in 538.273(e);

(2) The FSS contract to remain an active contract until the final order is closed out; and

(3) The FSS contract to govern the terms and conditions with respect to active task and delivery orders (e.g., price adjustments) to the same extent as if the orders were completed during the FSS contract ordering period.

(b) *Continuity of services*. The fill-in information prescribed in 538.273(e) does not preclude use of FAR clause 52.217-8 by ordering activities. However, the clause may only be used if the extension does not extend the cumulative term of the task order beyond the timeframe outlined in 538.273(e).

538.270-4 Use of economic price adjustments in FSS contracts.

The use of economic price adjustment (EPA) in FSS contracts helps ensure the Government is able to receive products, services, and solutions at fair and reasonable pricing throughout contract performance. EPAs provide for the increase or decrease of contract pricing based upon the occurrence of specified conditions described in the EPA method, such as market index changes or unforeseeable significant changes in market conditions.

(a) *Types of economic price adjustment*. The FSS program provides the following types of EPA:

(1) Adjustments based on fixed escalation rates (*e.g*, a fixed annual escalation rate).

(2) Adjustments based on a market index or other basis (*e.g.*, U.S. Bureau of Labor Statistics' Employment Cost Index).

(3) Adjustments based on established pricing (e.g., a contractor’s commercial price list, commercial catalog, or other standard market pricing).

(4) Adjustments based on unforeseeable significant changes in market conditions.

(b) *Exceptions*. The following types of price adjustments are not EPAs:

(1) Adjustments based on statute, Executive Order, or regulation (*e.g.*, Service Contract Labor Standards (41 U.S.C. chapter 67) and AbilityOne procurements (FAR subpart 8.7)).

(2) Adjustments based on a change clause (e.g., paragraph (c) of 552.212-4).

(3) Price reductions based on 552.238-81, Price Reduction.

(4) Adjustments based on 552.238-117, Price Adjustment-Failure to Provide Accurate Information.

(5) Adjustments based on a contract clause that authorizes an adjustment based on specified actions or conditions.

(c) *General requirements*.

(1) The solicitation owner may establish EPA solicitation instructions and requirements (e.g., establish a ceiling percentage for a specified category).

(2) The FSS contracting officer is responsible for—

(i) Evaluating the proposed EPA method;

(ii) Incorporating the agreed-upon EPA method into the resultant contract; and

(iii) Processing EPA requests in accordance with 552.238-120 and FAS policy.

538.271 FSS contract awards.

(a) FSS awards will be for commercial products and commercial services. Negotiate contracts as a discount from established catalog prices.

(b) Before awarding any FSS awards 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.

538.272 MAS price reductions.

(a) *Applicability*. This section applies when the contract contains the basic clause 552.238-80 Industrial Funding Fee and Sales Reporting.

(b) The basic clause and Alternate I of 552.238-81, 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). 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."

(c) Ensure that the contractor understands the requirements of section 552.238-81 and agrees to report all price reductions to the Contracting Officer as provided for in the clause.

538.273 FSS solicitation provisions and contract clauses.

The following clauses and provisions apply to FSS solicitations and contracts, unless otherwise excepted (see 538.001) or as otherwise stated below. For example, if only used in solicitations, the prescription will clearly state this. If the language does not specify "solicitations" then the clause applies to both FSS solicitations and contracts.

(a) Insert the following provisions in FSS solicitations:

(1) 552.238-70, Cover Page for Worldwide Federal Supply Schedules. Use in all FSS solicitations.

(2) 552.238-71, Notice of Total Small Business Set-Aside. Use in FSS solicitations containing special item numbers (SINs) that are set aside for small business.

(3) 552.238-72, Information Collection Requirements. Use in all FSS solicitations.

(4) 552.238-118, Single-use Plastic Free Packaging Identification.

(b) Insert the following clauses and provisions in FSS solicitations and contracts] as an addendum to FAR 52.212-1, Instructions to Offerors - Commercial Products and Commercial Services:

(1) 552.238-73, Identification of Electronic Office Equipment Providing Accessibility for Individuals with Disabilities. Use only in FSS solicitations for electronic office equipment.

(2) 552.238-74, Introduction of New Supplies and Services Special Item Number (SIN). Only for those solicitations allowing the introduction of new supplies/services. Note: GSA Form 1649, Notification of Federal Supply Schedule Improvement, may be required if revising a Special Item Number (SIN).

(c) Insert the following provisions in FSS solicitations as an addendum to FAR 52.212-2, Evaluation—Commercial Products and Commercial Services:

(1) 552.238-75, Evaluation – Commercial Products and Commercial Services (Federal Supply Schedules). Use in FSS standing solicitations.

(2) 552.238-76, Use of Non-Government Employees to Review Offers. Use only in FSS solicitations when non-government employees may be utilized to review solicitation responses.

(d) Insert the following clauses in FSS solicitations and contracts as an addendum to FAR Clause 52.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services:

(1) 552.238-77, Submission and Distribution of Authorized Federal Supply Schedule Price Lists.

(2) 552.238-78, Identification of Products that have Environmental Attributes. Use only in solicitations and contracts that contemplate products with environmental attributes.

(3) 552.238-79, Cancellation.

(4) 552.238-80, Industrial Funding Fee and Sales Reporting. Use Alternate I for FSS with Transactional Data Reporting requirements. Clause 552.238-81 Alternate I should also be used when vendors agree to include clause 552.238-80 Alternate I in the contract.

(5) 552.238-81, Price Reductions. Use Alternate I for FSS with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause 552.238-80 Alternate I in the contract.

(6) 552.238-82, Modifications (Federal Supply Schedules).

(i) Use Alternate I for FSS that only accept eMod.

(ii) Use Alternate II for FSS with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause 552.238-80 Alternate I in the contract.

(7) 552.238-83, Examination of Records by GSA (Federal Supply Schedules).

(8) 552.238-84, Discounts for Prompt Payment.

(9) 552.238-85, Contractor's Billing Responsibilities.

(10) 552.238-86, Delivery Schedule. Use only for supplies.

(11) 552.238-87, Delivery Prices.

(12) 552.238-88, GSA Advantage!®. This clause is not required for the Department of Veterans Affairs Federal Supply Schedules.

(13) 552.238-89, Deliveries to the U.S. Postal Service. Use only for mailable articles when delivery to a U.S. Postal Service (USPS) facility is contemplated.

(14) 552.238-90, Characteristics of Electric Current. Use only when the supply of equipment which uses electrical current is contemplated.

(15) 552.238-91, Marking and Documentation Requirements for Shipping. Use only for supplies when the need for outlining the minimum information and documentation required for shipping is contemplated.

(16) 552.238-92, Vendor Managed Inventory (VMI) Program. Use only for supplies when a VMI Program is contemplated.

(17) 552.238-93, Order Acknowledgement. Use only for supplies.

(18) 552.238-94, Accelerated Delivery Requirements. Use only for supplies.

(19) 552.238-95, Separate Charge for Performance Oriented Packaging (POP). Use only for products defined as hazardous under Federal Standard No. 313.

(20) 552.238-96, Separate Charge for Delivery within Consignee's Premises. Use only for supplies when allowing offerors to propose separate charges for deliveries within the consignee's premises.

(21) 552.238-97, Parts and Service.

(22) 552.238-98, Clauses for Overseas Coverage. Use only when overseas acquisition is contemplated. Choose the most appropriate clause(s) to the contract scenario. For example there are multiple free on board (F.o.b.) clauses. Select those that apply best to what is being procured. The GSAR clauses and GSAR provisions in paragraphs (d)(22)(i) through (xi) of this section shall also be inserted in full text, when applicable.

(i) FAR 52.214-34 Submission of Offers in the English Language.

(ii) FAR 52.214-35 Submission of Offers in U.S. Currency.

(iii) 552.238-90 Characteristics of Electric Current.

(iv) 552.238-91 Marking and Documentation Requirements for Shipping.

(v) 552.238-97 Parts and Service.

(vi) 552.238-99 Delivery Prices Overseas.

(vii) 552.238-100 Transshipments.

(viii) 552.238-101 Foreign Taxes and Duties.
(ix) FAR 52.247-29 F.o.b Origin
(x) FAR 52.247-34 F.o.b. Destination.
(xi) FAR 52.247-48 F.o.b. Destination-Evidence of Shipment

(23) 552.238-99, Delivery Prices Overseas. Use only when overseas acquisition is contemplated.
(24) 552.238-100, Transshipments. Use only when overseas acquisition is contemplated.
(25) 552.238-101, Foreign Taxes and Duties. Use only when overseas acquisition is contemplated.
(26) 552.238-102, English Language and U.S. Dollar Requirements.
(27) 552.238-103, Electronic Commerce. This clause is not required for Department of Veterans Affairs Federal Supply Schedules.
(28) 552.238-104, Dissemination of Information by Contractor.
(29) 552.238-105, Deliveries Beyond the Contractual Period-Placing of Orders.
(30) 552.238-106, Interpretation of Contract Requirements.
(31) 552.238-107, Export Traffic Release (Supplies). Use in FSS solicitations and contracts for supplies, This clause is not required for vehicles.
(32) 552.238-108, Spare Parts Kit. Use only for products requiring spare part kits. This information is to be specified at the order level.
(33) 552.238-109, Authentication Supplies and Services. Use only for information technology associated with the Homeland Security Presidential Directive 12 (HSPD–12).
(34) 552.238-110, Commercial Satellite Communication (COMSATCOM) Services. Use only for COMSATCOM services.
(35) 552.238-111, Environmental Protection Agency Registration Requirement. Use only for supplies when products may require registration with the Environmental Protection Agency.
(36) 552.238-112, Definitions—Federal Supply Schedule Contracts.
(37) 552.238-113, Authorities Supporting Use of Federal Supply Schedule Contracts.
(38) 552.238-116, Option to Extend the Term of the FSS Contract. Use when appropriate.
(39) 552.238-117, Price Adjustment—Failure to Provide Accurate Information. Use only in FSS solicitations and contracts under the MAS program. This clause is used when the contract contains the basic clause 552.238-80 Industrial Funding Fee and Sales Reporting.
(40) 552.238-119, Single-use Plastic Free Packaging Availability.
552.238-120, Economic Price Adjustment—Federal Supply Schedule Contracts. (41)

(e) Insert the following fill-in information within the blank of paragraph (d) of FAR 52.216-22, Indefinite Quantity: “the completion of customer order, including options, 60 months following the expiration of the FSS contract ordering period”.

Subpart 538.70 - Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities

538.7000 Scope of subpart.

This subpart prescribes policies and procedures for implementing statutory, regulatory, and other authorities that authorize use of Federal Supply Schedule (FSS) contracts by eligible non-Federal entities.

538.7001 Definitions.

As used in this subpart—

Eligible means an entity that meets the requirements prescribed by statute, regulation, or other authority for purposes of being able to use FSS contracts. Information about GSA’s FSS eligibility process is available at https://www.gsa.gov/eligibilitydeterminations.

Non-Federal entity means any state, local, 15 territorial, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education); and any other non-Federal organization (e.g., a qualified nonprofit agency as defined in 40 U.S.C. 502(b)).

Preparedness means actions that may include, but are not limited to: planning, resourcing, organizing, equipping, training, and conducting exercises to improve, build and sustain the capabilities necessary to prevent, protect, mitigate, respond, and recover from a disaster.

Recovery means actions taken to assist communities affected by an incident to recover effectively. This includes, but is not limited to, actions to restore, redevelop, and revitalize the health, social, economic, natural, and environmental fabric of the community. Recovery may begin while response is still occurring.

Response means actions taken during a disaster, or in its aftermath, in order to save lives, protect property and the environment, and meet basic human needs. Response also includes the execution of emergency plans and actions to enable recovery from a disaster.

538.7002 Authorities.

Various laws, regulations, and other authorities allow eligible non-Federal entities to use FSS contracts. This section identifies some of the common authorities allowing eligible non-Federal entities to use FSS contracts. See https://www.gsa.gov/eligibilitydeterminations for additional information about the authorities available.

538.7002-1 Cooperative purchasing program.

40 U.S.C. 502(c) allows State or local governments, as defined in 40 U.S.C. 502(c)(3), to purchase the types of supplies and services described in 40 U.S.C. 502(c). The supplies and services described in 40 U.S.C. 502(c) are limited to those available under the Information Technology Category, and the Security and Protection Category (or successor category(ies)). The GSA program that implements this authority is called the Cooperative Purchasing program.

538.7002-2 Disaster purchasing program.

(a) 40 U.S.C. 502(d) allows State or local governments, as defined in 40. U.S.C. 502(c)(3), to purchase supplies or services that are to be used to facilitate—

(1) Disaster preparedness or response;

(2) Recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(3) Recovery from terrorism, nuclear, biological, chemical, or radiological attack.

(b) The GSA program that implements this authority is called the Disaster Purchasing program.

538.7002-3 Public health emergencies program.

42 U.S.C. 247d allows State or local governments, as defined in 40 U.S.C. 502(c)(3), to purchase supplies and services when expending Federal grant funds in response to a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act. The GSA program that implements this authority is called the Public Health Emergencies program.

538.7002-4 Qualified nonprofit agencies for the blind or other severely disabled.

40 U.S.C. 502(b) allows qualified nonprofit agencies for the blind or other severely disabled, as defined by 41 U.S.C. 8501, that are providing a commodity or service to the Government under 41 U.S.C. chapter 85, to purchase supplies or services. Purchases under this authority must be used directly in making or providing to the Government a commodity or service that has been determined by the Committee for Purchase From People Who Are Blind or Severely Disabled under 41 U.S.C. 8503 to be suitable for procurement by the Government.

538.7002-5 Qualified relief or disaster assistance organizations.

40 U.S.C. 502(e) allows the American National Red Cross and other qualified organizations, as defined in 40 U.S.C. 502(e)(3), to purchase supplies or services. Purchases under this authority by the American National Red Cross shall be used in furtherance of the purposes of the American National Red Cross set forth in 36 U.S.C. 300102. Purchases under this authority by other qualified organizations shall be used in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.

538.7002-6 Indian Self-Determination and Education Assistance Act (ISDEAA).

(a) 25 U.S.C. 5324(k) allows Tribal organizations, as defined in 25 U.S.C. 5304, that have an active ISDEAA contract, grant, or cooperative agreement to purchase supplies or services for the purposes of carrying out the ISDEAA contract, grant, or cooperative agreement.

(b) 25 U.S.C. 5370 allows Indian Tribes, as defined in 25 U.S.C. 5304, that have an active ISDEAA compact or funding agreement to purchase supplies or services for the purposes of carrying the ISDEAA compact or funding agreement.

(c) 25 U.S.C. 5396 allows Indian Tribes, as defined in 25 U.S.C. 5304, that have an active ISDEAA compact or funding agreement to purchase supplies or services for the purposes of carrying out the ISDEAA compact or funding agreement.

538.7002-7 Native American Housing Assistance and Self Determination Act (NAHASDA).

25 U.S.C 4111(j) allows Indian Tribes, as defined in 25 U.S.C. 4103, and tribally designated housing entities, as defined in 25 U.S.C. 4103, that have an active NAHASDA contract, grant, or cooperative agreement to purchase supplies and services for the purposes of carrying out the NAHASDA contract, grant, or cooperative agreement.

538.7002-8 Native American Housing Assistance and Self Determination Act (NAHASDA).

25 U.S.C. 1660g(e) allows Urban Indian organizations, as defined in 25 U.S.C. 1603, that have an active contract or grant pursuant to 25 U.S.C. chapter 18 subchapter IV to purchase supplies and services for the purposes of carrying out the contract or grant.

538.7002-9 Tribally controlled schools.

25 U.S.C. 2507(a)(6) allows tribally controlled schools, as defined under 25 U.S.C. 2511, that have an active grant pursuant to 25 U.S.C. chapter 27 to purchase supplies or services for the purposes of carrying out the grant.

538.7002-10 1122 Program.

10 U.S.C. 281 allows States and units of local government, as defined in 10 U.S.C. 281, to purchase equipment suitable for counter-drug, homeland security, and emergency response activities through the Department of Defense. GSA, in coordination with the Secretary of Defense, produces and maintains a catalog in accordance with the procedures established by the Secretary of Defense. The catalog includes access to equipment available under FSS contracts. States and units of local government interested in using the 1122 program should contact their designated State point of contact.

538.7003 Non-Federal entity requirements.

Only non-Federal entities that are eligible may use FSS contracts. Use of FSS contracts by eligible non-Federal entities is voluntary. The following requirements apply to eligible non-Federal entities who decide to use FSS contracts:

(a) FSS contractors are not obligated to accept orders or enter into blanket purchase agreements; however, they are encouraged to do so.

(b) Purchases cannot be made for personal use.

(c) Purchases cannot be for resale, unless specifically authorized.

(d) At a minimum, purchases shall comply with—

(1) FSS ordering guidance. Information about GSA's FSS contracts, including ordering guidance is available at https://www.gsa.gov/schedules; and

(2) Any conditions of the underlying authority(ies) supporting the use of FSS contracts (e.g.,40 U.S.C. 502(c) limits purchases to specific supplies and services available under the FSS program).

(e) An eligible non-Federal entity's eligibility cannot be transferred to a third party (e.g., a subcontractor) or successor entity.

538.7004 GSA responsibilities.

(a) Eligibility determination process. GSA may need to make a determination of eligibility to support a non-Federal entity's use of FSS contracts. See https://www.gsa.gov/eligibilitydeterminations for information about eligibility.

(b) Oversight. To ensure proper use of and access to FSS contracts by eligible non-Federal entities, GSA may take any action within its authority as deemed necessary to deny, limit, or restrict use of FSS contracts, in whole or in part. Reasons may include, but are not limited to—

(1) A change in an underlying authority;

(2) A change in the terms and conditions of the FSS program or FSS contracts;
(3) A failure by an eligible non-Federal entity to comply with the requirements of 538.7003; or
(4) Use by an ineligible non-Federal entity.

538.7005 Contract clause.

Insert the clause at 552.238-114 Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities., Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities, in FSS solicitations and contracts.

Subpart 538.71 - [Reserved]

Subpart 538.72 - Order-level Materials

538.7200 Definitions.

As used in this subpart—

"Order-level materials" means supplies and/or services acquired in direct support of an individual task or delivery order placed against an authorized (see GSAR 538.7201(b)) Federal Supply Schedule (FSS) contract or FSS Blanket Purchase Agreement (BPA)), when the supplies and/or services are not known at the time of Schedule contract or FSS BPA award. The prices of order-level materials are not established in the FSS contract or FSS BPA. However, order-level materials are purchased under the authority of the FSS program, pursuant to 41 U.S.C. 152(3), and are not open market items, which are discussed in FAR 8.402(f).

538.7201 General.

(a) *Authority.* In accordance with GSA's authority under FAR 8.403(b), GSA has established special ordering procedures for the incorporation of order-level materials into the Federal Supply Schedule program.

(b) *List.* The list of Federal Supply Schedule subcategories authorized to allow for order-level materials is available at https://www.gsa.gov/olm.

(c) *Changes.* HCAs may request changes to the list in paragraph (b) by submitting GSA Form 1649, Notification of Federal Supply Schedule Improvement, for approval by the Assistant Commissioner of the FAS Office of Policy and Compliance. Requests, submitted via GSA Form 1649 or otherwise, to add this authority to a Federal Supply Schedule must address the need for the authority, including why it is impractical to price the items at the contract level, and a description of the market research conducted (see FAR 10.002(e)). The FAS Office of Policy and Compliance should notify the SPE of changes to the list in paragraph (b) via email sent to spe.request@gsa.gov.

538.7202 Awarding Order-Level Materials in FSS contracts.

(a) Federal Supply Schedules authorizing order-level materials must include a separate Special Item Number (SIN) with the following scope:

(1) Order-level materials are supplies or services acquired in direct support of a contractor's offerings and which are unknown before a task or delivery order is placed against the FSS contract or FSS BPA); including, direct materials, subcontracts for supplies and incidental services for which there is not a labor category specified in the FSS contract, other direct costs, and indirect costs. Order-level materials are subject to a negotiated price ceiling that the contractor exceeds at its own risk.

(2) Items awarded under ancillary supplies or other direct cost (ODC) SINs are not order-level materials.

(b) The order-level materials SIN cannot be the only awarded SIN on a FSS contract or FSS BPA.

(c) Price Pricing analysis for order-level materials is not conducted when awarding the Federal Supply Schedule FSS contract or FSS BPA; therefore, sections 538.270 and 538.271 do not apply to order-level materials.

538.7203 Administering Order-Level Materials in FSS contracts.

(a) Federal Supply Schedule Contracting Officers should consider requesting the assistance of members of the acquisition team responsible for contract administration functions (e.g., Administrative Contracting Officers, Industrial Operations Analysts) when evaluating the use of order-level materials at the FSS contract-level. Task or delivery orders including order-

level materials placed against FSS contracts should be monitored to ensure special ordering procedures are being followed at GSAR 552.238-115(d).

(b) Except as stated in 552.238-115(d)(10), all terms and conditions that otherwise apply to the FSS contract also apply to order-level materials. For example, order-level materials must comply with the Trade Agreements Act clauses, the Environmental Attributes clause, and the Industrial Funding Fee and Sales Reporting clauses.

538.7204 Contract clauses.

(a) Use FAR clause 52.212-4 Alternate I in all Federal Supply Schedules authorized for the acquisition of order-level materials (see 538.7201(b)). Use the following language for the clause fill-in—

(1) Insert "Each order must list separately subcontracts for services excluded from the FSS Hourly Rates" in paragraph (e)(1)(iii)(D).

(2) Insert "Each order must list separately the elements of other direct costs for that order" in paragraph (i)(1)(ii)(D)*(1)*.

(3) Insert "Each order must list separately the fixed amount for the indirect costs and payment schedule; if no indirect costs are approved," insert "None" in (i)(1)(ii)(D)*(2)*.

(b) Insert the clause at 552.238-115, Special Ordering Procedures for the Acquisition of Order-Level Materials, in FSS solicitations and contracts authorized to allow for order-level materials.

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PART 539 [RESERVED]

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PART 541 - ACQUISITION OF UTILITY SERVICES

Sec.

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PART 541 - ACQUISITION OF UTILITY SERVICES

Subpart 541.1 - General

541.100 Scope of part.

(a) This part applies to the acquisition of utility services from regulated utilities with the exception of section 541.202-1, which covers acquisition planning for deregulated utilities.

(b) Acquisitions from deregulated suppliers for natural gas and/or electricity shall use the competitive policies and procedures as prescribed in part 512.

541.101 Definitions.

As used in this part—

"Independent regulatory body" means the Federal Energy Regulatory Commission, a state-wide agency, or an agency with less than state-wide jurisdiction when operating pursuant to state authority that has the power to fix, establish, or control the rates and services of utility suppliers.

541.103 Statutory and delegated authority.

Proceedings before Federal and state regulatory bodies shall be coordinated through the Public Buildings Service, Office of Facilities Management, Energy Division, in addition to any other GSA office as directed by internal policies or procedures.

Subpart 541.2 - Acquiring Utility Services

541.201 Policy.

(a) GSA purchases utility services in a manner that is consistent with the regulations, rulings and franchise or service territories. Rates are established by independent regulatory bodies. These Tariff rates:

(1) Are considered "prices set by law or regulation"; and

(2) Are sufficient to set prices without obtaining cost or pricing data (see FAR 15.403-1(c) (2)).

(b) FAR Deviation. Notwithstanding the policy as set forth at FAR 41.201(b), GSA is exempt from the requirement to acquire a bilateral written contract for the acquisition of utility services from regulated utility providers and further exempt from the procedures listed in FAR 41.202 when acquiring such services. Instead, GSA will follow the Regulated Utility Service Procedures set forth at https://insite.gsa.gov/utilityacquisition.

(c) A bilateral written contract is not required to establish new accounts with a regulated utility service provider or to pay for services rendered by any such provider.

(d) Except as required during an emergency situation, a GSA purchase card may not be used as a payment method for any utility services. If a GSA purchase card is used during an emergency situation, the purchase card holder must inform the designated GSA budget office.

541.202 Procedures.

(a) All procedures listed in paragraphs (b) through (i) of this section do not apply to regulated utilities. Instead, GSA will follow the Regulated Utility Service Procedures set forth at https://insite.gsa.gov/utilityacquisition.

(b) Contracting officers shall perform market research and create acquisition plans in accordance with FAR 41.202 (a), (b), and (e).

(c) Acquisition plans for utility acquisitions over the simplified acquisition threshold are required for separate contracts and orders against GSA areawide contracts; this does not apply to the basic areawide contract.

(d) In accordance with 40 U.S.C. § 501(b)(1)(B) and FAR 41.103(a), a GSA order or contract for utility service cannot exceed a 10 year performance period.

(e) The statement of work for a utility contract must include the building number(s) and the specified period of performance.

(f) The Independent Government Cost Estimate for a utility contract must include all of the following information:

(1) A cost estimate for all individual months up to the thirteenth month;
(2) The known tariff rate increases in months beyond the 13 month; and
(3) Total estimated award amount for the entire period of performance.

(g) *Federal Procurement Data System reporting for utility contact actions*. (1) The award amount in the Federal Procurement Data System must align with any independent government cost estimate. The "Action Obligation" field must cover the first year of performance, and the "Base and All Options Value" field must cover the entire period of performance.

(2) The contracting officer must update the award amount for the contract and report the actual values in FPDS to match the new anticipated award amount based on actual costs previously obligated and any changes to the estimated value for future years halfway through the period of performance whenever the period of performance is five years or greater. The update must include actual payments to date, and a revised projection for the duration of the performance period.

(3) The contracting officer must update the award amount at the end of the entire period of performance to match the actual costs.

(h) A GSA purchase card must not be used as a payment method for any utility contract unless there are unusual circumstances or emergency situations that exist. If a GSA purchase card is used, you must inform your designated GSA budget office.

(i) Utility accounts and invoices must be monitored in accordance with the GSA Utility Program Standard Operating Procedures set forth at https://insite.gsa.gov/utilityacquisition.

541.202-1 Procedures for acquisition planning for deregulated utility supplies.

Acquisition plans are not required for delivery orders under deregulated (competitive) acquisitions for natural gas and/or electricity when all of the following criteria are met:

(a) The basic contract was entered into pursuant to a written acquisition plan.
(b) The delivery address (including the associated account number) of the order is listed in the requirements type contract.
(c) The order is issued only as a funding mechanism for the location awarded in the basic contract.

541.204 GSA areawide contracts.

(a) The existence of a GSA areawide contract for the required service and location does not necessarily mean that the subject utility provider is the only source capable of meeting the requirement (see FAR 41.202(a) and 41.204(c)(1)). When market research and acquisition planning support ordering the entire requirement under an area-wide contract, the contracting officer may do so, but shall utilize the annual reviews required by FAR 41.401 to determine the feasibility of later entering into a competitive contract for a portion of the requirement.

(b) *FAR Deviation.*

(1) Except as may be otherwise required by the terms of the areawide contract, and notwithstanding the requirement at FAR 41.204(c)(1), a bilateral written order is not required to establish new accounts or to pay for services rendered under an areawide contract.

(2) Notwithstanding the requirement at FAR 41.204(c)(3), the contracting officer does not have to use the Standard Form 26.

(3) Instead, GSA will follow the Regulated Utility Service Procedures set forth at https://insite.gsa.gov/utilityacquisition.

Subpart 541.4 - Administration

541.401 Monthly and annual review.

(a) *Monthly reviews*. As an alternative to the requirements outlined in FAR 41.401, which requires monthly reviews of all invoices with annual values exceeding the simplified acquisition threshold, the Comptroller General decision, B-227682.2, August 16, 1989, 68 Comp. Gen. 618 (GAO) authorized GSA to use an alternative methodology to meet this requirement. The GAO decision allows for the use of statistical sampling techniques to pay and audit utility invoices. Specifically, the GAO decision requires analysis and review of any problems discovered through 3% random sampling, 15% out-of-tolerance reports and historical data of utility invoices. Contract files shall include documentation of any corrective actions taken.

(b) *Annual reviews*. In addition to the requirements of FAR 41.401, the Public Buildings Service (PBS) will provide further guidance for conducting annual reviews.

Subpart 541.5 - Solicitation Provisions and Contract Clauses

541.501 Contract clauses (FAR DEVIATION).

(a) *FAR deviation*. GSA has a deviation from FAR 52.232-19 that allows use of the clause at 552.241-70 in lieu of the FAR clause at 52.232-19. Insert the clause at 552.241-70, Availability of Funds for the Next Fiscal Year or Quarter, in lieu of the FAR clause at 52.232-19, in all utility acquisitions.

(b) *Utility services*. Insert the clause at 552.241-71, Disputes (Utility Contracts), in solicitations and contracts for utility services subject to the jurisdiction and regulation of a utility rate commission.

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SUBCHAPTER G - CONTRACT MANAGEMENT

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PART 542 - CONTRACT ADMINISTRATION AND AUDIT SERVICES

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Subpart 542.2 - Contract Administration Services

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542.1570-5 Reviewing official responsibilities.

542.1570-6 GSA CPARS Agency Points of Contact responsibilities.

542.1570-7 CPARS Focal Points responsibilities.

Subpart 542.70 - Audit of Contractor's Records

542.7001 General.

542.7002 Purpose of audit.

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PART 542 - CONTRACT ADMINISTRATION AND AUDIT SERVICES

542.001 Definitions.

Subpart 542.1 - Contract Audit Services

542.102 Assignment of contract audit services.

(a) The contracting officer shall request all audit services through the Assistant Inspector General for Auditing or the Regional Inspector General for Auditing, as appropriate.

(b) The contracting officer must follow the procedures set out in GSA Order ADM 2030.2, Internal Audit Follow-up Handbook, for handling contract audit reports.

Subpart 542.2 - Contract Administration Services

542.202 Assignment of contract administration.

(a) Assignment of contract administration is the process whereby identified functions, duties, or responsibilities related to the administration of contracts are assigned to either a contract administration office (CAO) or an administrative contracting officer (ACO) within a contracting office.

(b) Each contracting director must establish procedures that ensure that qualified personnel perform contract administration activities in an effective manner. Usually, the PCO or the ACO in the contracting office performs these activities (but see paragraphs (c) – (d) of this section).

(c) If it is more efficient, management may establish a separate CAO. Consider each of the following:

(1) The nature and complexity of the contract.

(2) The need to perform contract administration at or near the contractor's facility or the place of performance.

(3) The availability of resources.

(d) The contracting officer may designate one or more representatives to perform specified functions such as quality assurance, production, price analysis, finance and various engineering and technical specialties. The contracting officer's representatives (CORs) may not enter into or modify a contract or otherwise perform functions reserved for a contracting officer (except see 543.202 for construction contracts).

(e) If the contracting officer delegates contract administration to an ACO or designates a contracting officer's technical representative (COTR) or contracting officer's representative (COR), then provide the contractor with the name of the ACO and any representative and identify the functions each is authorized to perform.

(f) The contracting officer may provide or make available to the ACO a complete copy of the contract file. The contracting officer may provide each COR and COTR with the contract file information they need to perform their duties

(g) The contracting officer may delegate to an ACO functions other than those listed in FAR 42.302 and 542.302 Contract administration functions. on page 1 after obtaining approval from the Senior Procurement Executive. The contracting officer may submit requests through the HCA. If approved, the contracting officer should follow FAR 42.202(c).

Subpart 542.3 - Contract Administration Office Functions

542.302 Contract administration functions.

(a) Assignment of contract administration office functions is the process whereby identified functions, duties, or responsibilities related to the administration of contracts are assigned to a contract administration office (CAO) or an administrative contracting officer (ACO) within a contracting office.

(b) Usually, the CO or the ACO in the contracting office performs these activities (but see paragraphs (c) - (g) of this section).

(c) If it is more efficient, management may establish a separate CAO. Consider each of the following:

(1) The nature and complexity of the contract.

(2) The need to perform contract administration at or near the contractor's facility or the place of performance.

(3) The availability of resources.

(d) The contracting officer may designate one or more representatives to perform specified functions such as quality assurance, production, price analysis, finance and various engineering and technical specialties. The contracting officer's representative (COR or COTR) may not enter into or modify a contract or otherwise perform functions reserved for a contracting officer (except see 543.202). However, the authority to issue in-scope change orders not exceeding $25,000 may be delegated to a COTR assigned to construction contracts. See 543.202 and (d).

(e) If the contracting officer delegates contract administration to an ACO or designates a contracting officer's technical representative (COTR) or contracting officer's representative (COR), then the contracting officer must provide the contractor with the name of the ACO and any representative and identify the functions each is authorized to perform.

(f) The contracting officer shall provide or make available to the ACO a complete copy of the contract file and provide each COR and COTR with the contract file information needed to perform assigned duties.

(g) ACO functions other than those listed in FAR 42.302 may be delegated if the Senior Procurement Executive approves. Such requests must be submitted through the HCA. If approved, follow FAR 42.202(c).

(h) Credentials and Access Management. See section 504.1370 GSA Credentials and Access Management Procedures. for credentials and access management contract administration requirements on contracts or orders including FAR clause at 52.204-9, Personal Identity Verification of Contractor Personnel and GSAR clause at 552.204-9, Personal Identity Verification Requirements.

Subpart 542.11 - Production Surveillance and Reporting

542.1107 Contract clause.

Insert the clause at 552.242-70, Status Report of Orders and Shipments, in solicitations and contracts when a requirements or indefinite quantity and requirements contract for Stock or Special Order Program items is contemplated. The clause may be used in indefinite-delivery definite-quantity contracts for Stock or Special Order Program items when close monitoring is necessary because numerous shipments are involved.

Subpart 542.12 - Novation and Change-of-Name Agreements

542.1203 Processing agreements.

Contracting officers should process agreements as soon as a complete package has been received from the contractor. If the proposed successor is a large business and the contract was originally awarded under a small business set-aside, the contracting officer shall—

(a) Notify and solicit comments from the SBTA (see FAR 42.1203(b) and (c)); and

(b) Not recognize the proposed successor if—

(1) The conclusion is that the transaction is intended to circumvent the requirements and objectives of the small business program; or

(2) If a MAS contract is involved and other MAS small business contracts exist for the same special item number(s); and

(c) Cancel the set-aside items if a MAS contract is involved and the contract has both set-aside and non-set-aside special item numbers, then process the novation request for the non-set-aside items.

Subpart 542.15 - Contractor Performance Information

542.1500 Scope of subpart.

This subpart provides supplemental policies and procedures for FAR subpart 42.15.

542.1501 General.

The Contractor Performance Assessment Rating System (CPARS) is the official source for past performance information and integrity information (integrity information was formerly captured by the Federal Awardee Performance and Integrity Information System (FAPIIS)).

(a) *CPARS roles*. The following roles are required by the CPARS system and support the processes for collecting and maintaining contractor performance information and integrity information as required by FAR subpart 42.15 and this subpart.

The individuals performing these roles must be government employees. See 542.1570 for a description of the responsibilities for each of these roles.

(1) *GSA CPARS Department Point of Contact*. The Senior Procurement Executive (SPE), or designee, designates a GSA CPARS Department Point of Contact.

(2) *CPARS Agency Points of Contact*. Each Service (i.e., FAS and PBS) and each Staff Office with contracting responsibilities (e.g., OAS) shall designate CPARS Agency Points of Contact. Any update to CPARS Agency Points of contact shall be coordinated with the GSA CPARS Department Point of Contact.

(3) *CPARS Focal Point*. Each contracting office shall designate a primary and alternate CPARS Focal Point. A CPARS Focal Point may Page 6 of 11 oversee more than one contracting office. Any updates to a CPARS Focal Point shall be coordinated with the applicable CPARS Agency Point of Contact.

(b) *CPARS Resources*. Information about CPARS is available at:

(1) The CPARS website at https://www.cpars.gov.

(2) The CPARS topic page on the GSA Acquisition Portal at https://insite.gsa.gov/acquisitionportal. This Acquisition Portal page also identifies the GSA CPARS Department Point of Contact and CPARS Agency Points of Contact.

542.1502 Policy.

(a) *FAR Deviation.* Past performance evaluations for regulated utility contracts and orders procured on a non-competitive basis in accordance with FAR part 41 shall not be entered into CPARS. Performance issues shall be reported directly to the applicable independent regulatory bodies as described in FAR 41.103(a)(1).

(b) Failure to return personal identity verification (PIV) cards or other Government Furnished Equipment. The Contracting Officer shall comply with 504.1370 when a contractor fails to return a PIV card or other Government Furnished Equipment (GFE).

542.1502-70 Internal acquisition policy, procedure, and guidance.

Heads of Contracting Activities (HCAs), consistent with their delegated authority (see (b)(2) and (b)) may establish internal acquisition policies, procedures, and guidance for their respective contracting activity(ies) concerning the collection and maintenance of contractor performance information and integrity information as required by FAR subpart 42.15 and this subpart. The internal acquisition policy, procedure, and guidance shall include:

(1) If applicable, requirements for reporting contractor performance evaluations for classified contracts and special access programs (see FAR42.1503(f)).

(2) If applicable, requirements for providing interim contractor performance evaluations (see FAR 42.1503(a)(3)).

(3) Identifying and assigning contractor performance evaluation roles and responsibilities, such as identifying and assigning reviewing officials and their responsibility (e.g., reviewing disagreements regarding contractor performance evaluation). See FAR 42.1503(d) and 542.1570-5.

542.1570 Roles and responsibilities.

For the roles identified in this section, additional guidance and information can be found within the CPARS Guide and CPARS User Manual available at https://www.cpars.gov.

542.1570-1 Heads of the Contracting Activities (HCAs) responsibilities.

HCAs' primary responsibilities consist of the following:

(a) Monitoring (e.g., monthly, quarterly) their respective activity's compliance with reporting requirements for collecting and maintaining contractor performance information and integrity information records as required by FAR subpart 42.15 and this subpart. Monitoring shall include, at a minimum–

(1) Actively tracking the status and progress of the reporting of contractor performance evaluations and integrity information; and

(2) Timely identifying delinquent reporting of contractor performance evaluations and delinquent reporting of integrity information.

(b) Ensuring contractor performance evaluations are entered into CPARS completely and within applicable deadlines in accordance with FAR 42.1503;

(c) Ensuring integrity information is entered completely and within applicable deadlines into the CPARS integrity reporting module (formally known as FAPIIS) in accordance with FAR 42.1503(h)(1));

(d) Taking timely corrective action to address instances of noncompliance;

(e) Conducting reviews to assess the quality of contractor performance evaluations and reporting of integrity information; and

(f) Ensuring personnel (e.g., contracting officer representatives, contracting officers, etc.) involved in the reporting of contractor performance evaluations and integrity information are trained on the use of CPARS and applicable requirements for reporting information into CPARS. This responsibility includes establishing a process to conduct periodic assessments to identify shortfalls and projected needs in CPARS training.

542.1570-2 Contracting Officer responsibilities.

Unless otherwise assigned, Contracting officers' primary responsibilities consist of the following:

(a) Obtaining information, as appropriate from the program office, contracting officer's representative (COR), administrative contracting office, audit office, end users of the product or service, and any other technical or business advisor.

(b) Reviewing past performance and integrity information available in CPARS.

(c) Completing contractor performance evaluations in accordance with FAR 42.1503.

(d) Reporting integrity information in accordance with FAR 42.1503(h)(1)).

542.1570-3 Contracting Officer's Representative responsibilities.

Unless otherwise assigned, CORs shall provide input, including applicable documentation, to support the evaluation of contractor performance information and integrity information as required by FAR subpart 42.15 and this subpart. This responsibility shall be included in COR appointment letters (see 501.604(e)).

542.1570-4 GSA CPARS Department Point of Contact responsibilities.

The GSA CPARS Department Point of Contact is responsible for administrative oversight of contractor performance evaluations and integrity information for GSA, such as using CPARS tools to monitor agency key performance metrics and compliance.

542.1570-5 Reviewing official responsibilities.

The reviewing official must be a Government employee. The reviewing official provides the check-and-balance when there is disagreement between the assessing official and the contractor regarding the contractor performance evaluation (see FAR 42.1503(d)). The reviewing official is generally responsible for reviewing, providing comments (the reviewing official's comments supplement those provided by the assessing official; they do not replace the ratings/narratives provided by the assessing official), and signing the contractor performance evaluation when a contractor indicates non-concurrence with a contractor performance evaluation. The ultimate conclusion on the contractor performance evaluation is a decision of the contracting agency.

542.1570-6 GSA CPARS Agency Points of Contact responsibilities.

GSA CPARS Agency Points of Contacts are responsible for providing administrative oversight of their respective Service's or Staff Office's reporting of contractor performance evaluation and integrity information. The following are the primary responsibilities of this role—

(a) Quarterly (or more frequent) monitoring the respective Service or Staff Office's compliance with reporting of contractor performance evaluations and integrity information as required by FAR subpart 42.15 and this subpart.

(b) Promptly resolving any noncompliance identified through the monitoring process.

(c) Using tools (e.g., CPARS metric and SAM.gov tools) to measure the quality and timely reporting of contractor performance and integrity information.

(d) Providing system access to CPARS Focal Points, managers, and other authorized users as necessary, and ensuring access is timely removed or updated when appropriate.

(e) Assigning and reassigning contracts/orders to CPARS Focal Points as needed.

(f) Facilitating interagency contract transfers in coordination with the GSA CPARS Department Point of Contact and the CPARS Help Desk.

(g) Providing, as needed, support to CPARS Focal Points.

(h) Consolidating CPARS Focal Point feedback and coordinating system improvement suggestions with the GSA Department CPARS Point of Contact.

(i) Coordinating with the GSA Department CPARS Point of Contact to remove contracts from CPARS, as needed.

(j) Ensuring contracts not required to be reported in CPARS are tracked and managed.

542.1570-7 CPARS Focal Points responsibilities.

CPARS Focal Points are responsible for providing administrative support for their respective contracting office(s). The following are the primary responsibilities of this role—

(a) Assigning contractor performance evaluation records to the appropriate government user.

(b) Monitoring compliance with reporting of contractor performance evaluations and integrity information as required by FAR subpart 42.15 and this subpart.

(c) Using tools (e.g., CPARS and SAM.gov metric tools) to measure the quality and timely reporting of contractor performance evaluations and integrity information.

(d) Providing assistance to personnel to ensure contractor performance evaluations and reporting of integrity information are completed in a timely manner and are of high quality.

Subpart 542.70 - Audit of Contractor's Records

542.7001 General.

The OIG Office of Audits audits a contractor's records if required by law, regulation, or sound business judgment. These audits include periodic or special request audits necessary to determine a contractor's financial condition, adequacy of its accounting system, and integrity and reliability. The contracting officer should coordinate with technical specialists, finance and audit personnel to achieve the maximum benefits from these audits.

542.7002 Purpose of audit.

The contracting officer may obtain from audits advice or recommendations on the:

(a) Propriety of amounts paid, or to be paid, by GSA to a contractor when such amounts are based on a cost or time determination or on variable features related to the results of the contractor's operations.

(b) Adequacy of a contractor's measures to safeguard Government property in its custody or under its control.

(c) Contractor's compliance with contractual obligations concerning progress payments, advance payments, guaranteed loans, cash return provisions, and price adjustments.

(d) Reasonableness of a contractor's termination settlement proposals.

542.7003 Additional internal controls.

(a) The contracting officer should not rely solely on contractual audit rights. The contracting officer should establish internal controls or procedures for any flexible or variable features of these contracts:

(1) Cost-reimbursement.

(2) Time-and-materials or labor-hour.

(3) Requirements or indefinite-quantity.

For example, for a time-and-materials or labor-hour contract performed at a Government facility or elsewhere, the contracting officer should provide for the review of time records. The contracting officer should provide for this review even if the contractor is subject to supervision by Government personnel.

(b) The contracting officer should establish these internal controls or procedures prior to the commencement of contract performance. Use any reasonable and reliable method or procedure that will enable the Government to determine the correctness of the charges for such matters as the time spent on the job and materials or supplies received. If needed, obtain assistance from the Assistant Inspector General for Auditing or the Regional Inspector General for Auditing.

542.7004 Releasing or withholding of audit reports.

The Freedom of Information Act requires the disclosure of Government records subject to certain exceptions. The contracting officer should consult with both the Assistant Inspector General for Auditing and the GSA Office of General Counsel before releasing or withholding a contract audit report.

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PART 543 - CONTRACT MODIFICATIONS

Sec.

Subpart 543.1 - General

543.102 Policy.

543.170 Changes in designated subcontractors, inspection and/or production points.

543.171 Changes in commercial supplier agreements.

Subpart 543.2 - Change Orders

543.204 Administration.

543.205 Contract clause.

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PART 543 - CONTRACT MODIFICATIONS

Subpart 543.1 - General

543.102 Policy.

(a) In accordance with the Federal Information and Technology Acquisition Reform Act (FITARA) (Pub L. No. 113-291), the contracting officer must ensure any modification that makes substantial changes to the scope of a contract or order for GSA information technology that is inconsistent with the approved acquisition plan receives approval from the GSA Chief Information Officer (CIO). See section 511.170 for any necessary GSA IT Standards Profile approvals. For interagency acquisitions, the requesting agency is responsible for CIO coordination and approval for any modifications that make substantial changes to the scope of a contract or order.

543.170 Changes in designated subcontractors, inspection and/or production points.

(a) Before executing a contract modification authorizing changes in either a designated subcontractor or inspection or production point, the contracting officer must consider the impact of the change on the contractor's ability to satisfy contract requirements. Employ the same standards that were used to determine that the contractor was responsible (see FAR 9.1 and GSAM 509.1).

(b) The modification must identify the nature of the change and the effective date. In establishing an effective date, consider the time necessary for affected offices to take required actions.

543.171 Changes in commercial supplier agreements.

(a) Commercial supplier agreements must be modified if the updated terms are material as defined in 552.212-4(w)(1)(iv) or 552.232-78(a)(6).

(b) When authorizing a contract modification to update commercial supplier agreement terms, the contracting officer must consider the impact to the Government's rights and negotiate the terms if necessary.

(c) The contracting officer is responsible for maintaining a current copy of the commercial supplier agreement in the contract file.

Subpart 543.2 - Change Orders

543.204 Administration.

(a) Documentation. For construction contracts, the Contracting Officer or appropriate agent shall complete GSA Form 2437 for all modifications, except unilateral administrative changes pursuant to FAR 43.103(b)(1). This form shall be completed promptly prior to the Contracting Officer issuance of a contract modification, including price to be determined later change orders.

(b) Data. For construction contracts, data regarding the definitization of equitable adjustments for change orders can be found at https://www.gsa.gov/constructioncontractadmin.

543.205 Contract clause.

Insert the clause at 552.243-71, Equitable Adjustments, in solicitations and contracts that include any of the following FAR clauses: 52.243-4, 52.243-5, or 52.236-2.

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PART 544 - SUBCONTRACTING POLICIES AND PROCEDURES

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PART 545 - GOVERNMENT PROPERTY

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PART 546 - QUALITY ASSURANCE

Sec.

Subpart 546.3 - Contract Clauses
546.302 Fixed-price supply contracts.
546.302-70 Source inspection by Quality Approved Manufacturer for fixed-price supply contracts.
546.302-71 Source inspection.
546.302-72 Destination Inspection.
546.312 Construction contracts.
Subpart 546.7 - Warranties
546.704 Authority for use of warranties.
546.705 Limitations.
546.708 Warranties of data.
546.710 Contract clause.

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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 fixed-price supply contracts.

(a) Insert the clause at 552.246-70, Source Inspection by Quality Approved Manufacturer:

(1) In FAS solicitations and contracts that—

(i) Will exceed the simplified acquisition threshold;

(ii) Include the FAR clause at 52.246-2; and

(iii) Provide for source inspection for the Stock and Special Order Programs.

(2) In solicitations and contracts that—

(i) Are below the simplified acquisition threshold;

(ii) Include the FAR clause at 52.246-2; and

(iii) Support the Wildfire program; or

(iv) When a pattern of acquisitions demonstrates an ongoing relationship with the contractor.

(b) The contracting officer may authorize inspection and testing at manufacturing plants or other facilities located outside the United States, Puerto Rico, or the U.S. Virgin Islands according to paragraph (a)(1) of the clause at 552.246-70 when any of the following conditions apply and after coordinating the authorization with QVOC and documenting the authorization 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) Other considerations will ensure more economical and effective inspection consistent with the Government's interest.

546.302-71 Source inspection.

Insert the clause at 552.246-71, Source Inspection by Government, in FAS solicitations and contracts where Government personnel at the source will perform inspection.

546.302-72 Destination Inspection.

Insert the clause at 552.246-78, Inspection at Destination, in solicitations and contracts for supplies that require inspection at destination.

546.312 Construction contracts.

Insert the clause at 552.246-72, Final Inspection and Tests, in solicitations and contracts for construction that include the FAR clause at 52.246-12.

Subpart 546.7 - Warranties

546.704 Authority for use of warranties.

FAR clause 52.246-21, Warranty of Construction, is approved by the agency for use in solicitations and contracts when a fixed-price construction contract is contemplated.

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) The contracting officer shall use warranties of data only when both of the following conditions are applicable:

(1) Use of a warranty is in the Government's interest and is documented; and

(2) The contracting director concurs with the decision.

(b) The contracting officer shall consult with the technical or specification manager responsible for developing any warranties of data.

546.710 Contract clause.

Insert the clause at 552.246-77, Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature, in solicitations and contracts that include the FAR clause at 52.246-17.

PART 547 [RESERVED]

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PART 548 - VALUE ENGINEERING

Sec.

Subpart 548.1 - Policies and Procedures 548.101 General.

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PART 548 - VALUE ENGINEERING

Subpart 548.1 - Policies and Procedures

548.101 General.

GSA Order PBS 8050.1, Public Buildings Service Value Engineering Programs provides guidance on using value engineering.

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PART 549 - TERMINATION OF CONTRACTS

Sec.

Subpart 549.1 - General Principles

549.111 Review of proposed settlements.

Subpart 549.4 - Termination for Default

549.402 Termination of fixed–price contracts for default.

549.402-6 Repurchase against contractor's account.

549.402-7 Other damages.

Subpart 549.5 - [Reserved]

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PART 549 - TERMINATION OF CONTRACTS

Subpart 549.1 - General Principles

549.111 Review of proposed settlements.

The HCA may establish procedures for the review and approval of settlement agreements at a level above the contracting officer.

Subpart 549.4 - Termination for Default

549.402 Termination of fixed–price contracts for default.

549.402-6 Repurchase against contractor's account.

The contracting officer shall—

(a) Place a brief explanation for the repurchase in the contract file.

(b) If practical, use the original contract terms, conditions, and specification for the repurchase. Whether or not the original terms are used, obtain the advice of assigned legal counsel before issuing a solicitation for similar supplies or work (services and construction).

(c) If the reprocurement is delayed, protect the Government's rights to recover reprocurement costs by documenting the file to explain the circumstances of the delay.

549.402-7 Other damages.

(a) Even if the repurchase price does not exceed the price of the terminated supplies or work (services and construction), the contracting officer shall include administrative costs incurred for the repurchase when determining the final purchase price. The contracting officer shall include all reprocurement costs in a single demand letter (see FAR 49.402-6(c)). The contracting officer shall include detailed documentation in the contract file to support the Government's position that the additional administrative costs were a direct result of the default. The contracting officer shall provide a summary of the additional administrative costs in the demand letter.

(b) Administrative costs include, but are not limited to, the following:

(1) Salaries and fringe benefits paid to Government employees who perform work as a result of the default.

(2) Preaward survey expenses incurred by qualifying reprocurement contractors.

(3) Printing and distribution costs of the reprocurement solicitation and repurchase contract.

(4) Travel and per diem.

(c) For administrative labor costs, record each of the following:

(1) Name, position, and organization of each employee performing work activities as a consequence of the default.

(2) Date(s) of work and time(s) spent by each employee on the repurchase.

(3) Description of specific tasks performed (for example, solicitation preparation or clerical).

(4) Hourly rate of pay (straight time or overtime).

(5) Applicable fringe benefits.

(6) Explanation of how the time spent by the employees during the reprocurement would have been used on other projects but for the default.

(d) For other incurred administrative costs, the contracting officer shall include travel vouchers, invoices, printing requisitions, and other appropriate evidence of expenditures.

Subpart 549.5 - [Reserved]

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PART 550 - EXTRAORDINARY CONTRACTUAL ACTIONS

Sec.

550.001 Definitions.

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550.001 Definitions.

"Approving authority," as used in FAR 50, means GSA's Administrator.

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SUBCHAPTER H - CLAUSES AND FORMS

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PART 552 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.

552.000 Scope of part.

Subpart 552.1 - Instructions for Using Provisions and Clauses

552.101 [Reserved]
552.101-70 Using Part 552.
552.102 Incorporating provisions and clauses.
552.103 Identification of provisions and clauses.
552.104 Procedures for modifying and completing provisions and clauses.
552.105 Procedures for using alternates.
552.107 [Reserved]
552.107-70 Solicitation provision and contract clause.

Subpart 552.2 - Text of Provisions and Clauses

552.200 Scope of subpart.
552.203 [Reserved]
552.203-5 [Reserved]
552.203-70 [Reserved]
552.203-71 Restriction on Advertising.
552.204 [Reserved]
552.204-9 Personal Identity Verification Requirements.
552.211 [Reserved]
552.211-8 [Reserved]
552.211-10 Commencement, Prosecution, and Completion of Work.
552.211-12 Liquidated Damages—Construction.
552.211-13 Time Extensions.
552.211-70 Substantial Completion.
552.211-71 [Reserved]
552.211-72 Reference to Specifications in Drawings.
552.211-73 Marking.
552.211-74 [Reserved]
552.211-75 Preservation, Packaging, and Packing.
552.211-76 Charges for Packaging, Packing, and Marking.
552.211-77 Packing List.
552.211-78 [Reserved]
552.211-79 Acceptable Age of Supplies.
552.211-80 Age on Delivery.
552.211-81 Time of Shipment.
552.211-82 [Reserved]
552.211-83 Availability for Inspection, Testing, and Shipment/Delivery.
552.211-84 [Reserved]
552.211-85 Consistent Pack and Package Requirements.
552.211-86 Maximum Weight per Shipping Container.
552.211-87 Export Packing.
552.211-88 Vehicle Export Preparation.
552.211-89 Non-manufactured Wood Packaging Material for Export.
552.211-90 Small Parts.
552.211-91 Vehicle Decals, Stickers, and Data Plates.
552.211-92 Radio Frequency Identification (RFID) Using Passive Tags.
552.211-93 [Reserved]
552.211-94 Time of Delivery.
552.212 [Reserved]
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PART 552 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.000 Scope of part.

Subpart 552.1 - Instructions for Using Provisions and Clauses

552.101 [Reserved]

552.101-70 Using Part 552.

(a) *Numbering*. (1) GSAR provisions or clauses which are "substantially" the same as a FAR provision or clause (*e.g.*, 552.232-1, Payments) are identified as follows:

(i) The provision or clause has the same title as the FAR provision or clause.

(ii) The provision or clause has the same number as the FAR provision or clause, except the number is preceded by the number "5".

(2) GSA prescribed provisions and clauses (*e.g.*, 552.232-72, Final Payment Under Building Services Contracts) are numbered in the same manner as the FAR, except that—

(i) The number is preceded by the number "5", and

(ii) The sequential number at the end of the number of the provision or clause is "70" or a higher number.

(b) *Prescriptions*. Each provision or clause in subpart 552.2 is prescribed at the place in the GSAR where the subject matter of the provision or clause receives its primary treatment. The prescription includes all conditions, requirements, and instructions for using the provision or clause and its alternates, if any. The provision or clause may be referred to in other GSAM locations.

(c) *Introductory text*. Within subpart 552.2, the introductory text of each provision or clause includes a cross-reference to the location in the GSAR that prescribes its use.

(d) *Dates*. Since they are subject to revision from time to time, all GSAR provisions, clauses, and alternates are dated; e.g., (DEC 1983). To avoid questions concerning which version of any provision, clause, or alternate is operative in any given solicitation or contract, its date shall be included whether it is incorporated by reference or in full text.

552.102 Incorporating provisions and clauses.

(a) Except for paragraph (b) of this section, GSAR provisions and clauses should be incorporated by reference to the maximum practical extent, rather than being incorporated in full text. Upon request, the contracting officer shall provide the full text of any GSAR provision or clause incorporated by reference.

(b) A GSAR provision or clause should be incorporated in full text if—

(1) It requires modification or completion by the Government (*e.g.*, completion of blanks in provisions or clauses) (see FAR 52.104 and 552.104);

(2) It requires completion by the offeror or contractor;

(3) It is identified as a deviation that has not been incorporated into the GSAM or FAR, as applicable (*e.g.*, acquisition letter) (see (a)); or

(4) It is used with one or more alternates.

552.103 Identification of provisions and clauses.

(a) *General*. When a GSAR provision or clause is used without deviation in a solicitation or contract, it shall be identified by number, title, and date (*e.g.*, 552.211-77, Packing List (FEB 1996)).

(b) *Deviations*. (1) Federal Acquisition Regulation deviations. When a GSAR provision or clause is used with an authorized deviation in lieu of a FAR provision or clause in a solicitation or contract, it shall be identified by—

(i) The addition of "(FAR DEVIATION)" after the date of the GSAR provision or clause.

(ii) The addition of standardized language at the beginning of the prescription that reads " FAR deviation. GSA has a deviation from FAR (provision or clause number) . . .".

(2) General Services Administration Acquisition Regulation deviations. When a GSAR provision or clause is used with an authorized deviation in a solicitation or contract, it shall be identified by—

(i) The addition of "(GSAR DEVIATION)" after the date of the GSAR provision or clause.

(ii) The addition of standardized language at the beginning of the prescription that reads " GSAR deviation. GSA has a deviation from GSAR (provision or clause number) . . .".

(c) *Alternates*. When a GSAR provision or clause is used with an alternate in a solicitation or contract, it shall be identified by the basic provision or clause citation and the alternate label (*e.g.*, 552.211-77, Packing List (FEB 1996) Alternate I (MAY 2003)). The alternate label consists of the word "Alternate", the alternate number, and date (*e.g.*, Alternate I (MAY 2003)).

552.104 Procedures for modifying and completing provisions and clauses.

(a) The procedures in FAR 52.104 apply when you modify or complete a GSAR provision or clause. Provisions and clauses shall not be modified unless the GSAR authorizes their modification.

(b) You do not need to identify modifications of clauses which result from negotiations unless you issue an amendment to the solicitation.

(c) In general, you should modify FAR or GSAR clauses only for individual cases. If a contracting activity develops a modification for repeated use, furnish a copy to the Office of GSA Acquisition Policy (MV) for potential inclusion in the GSAR.

552.105 Procedures for using alternates.

The procedures in FAR 52.105 apply to GSAR part 552.

552.107 [Reserved]

552.107-70 Solicitation provision and contract clause.

GSA has a deviation from FAR 52.252-5 that allows use of the following provisions and clauses in lieu of the FAR provision at 52.252-5 and the FAR clause at 52.252-6.

(a) Insert the provision at 552.252-5, Authorized Deviations in Provisions, in solicitations that include any FAR or GSAR provision with an authorized deviation in lieu of the FAR provision at 52.252-5.

(b) Insert the clause at 552.252-6, Authorized Deviations in Clauses, in solicitations and contracts that include any FAR or GSAR clause with an authorized deviation in lieu of the FAR clause at 52.252-6.

Subpart 552.2 - Text of Provisions and Clauses

552.200 Scope of subpart.

This subpart sets forth the text of all GSAR provisions and clauses. It also cross-references the location in the GSAR that prescribes the use of each provision and clause.

552.203 [Reserved]

552.203-5 [Reserved]

552.203-70 [Reserved]

552.203-71 Restriction on Advertising.

As prescribed in 503.570-2 , insert the following clause:

RESTRICTION ON ADVERTISING (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall

contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government."

(End of clause)

552.204 [Reserved]

552.204-9 Personal Identity Verification Requirements.

As prescribed in 504.1303 , insert the following clause:

PERSONAL IDENTITY VERIFICATION REQUIREMENTS (APR 2023)

(a) The Contractor shall comply with GSA personal identity verification requirements, identified in ADM 2181.1 GSA HSPD-12 Personal Identity Verification and Credentialing, and Background Investigations for Contractor Employees, if Contractor employees require access to GSA controlled facilities or information systems to perform contract requirements. The Contractor can find the CIO policy and additional information at https://www.gsa.gov/resources/for-federal-employees/access-gsa-facilities-and-systems-with-a-piv-card.

(b) The Contractor shall insert this clause in all subcontracts when the subcontractor is required to have access to a GSA-controlled facility or access to a GSA-controlled information system.

(End of clause)

552.211 [Reserved]

552.211-8 [Reserved]

552.211-10 Commencement, Prosecution, and Completion of Work.

As prescribed in 511.404 (b), insert the following clause:

COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (MAR 2019)

FAR 52.211-10, Commencement, Prosecution, and Completion of Work, is supplemented as follows:

(a) The Contractor shall not commence work until the Contracting Officer issues a notice to proceed.

(b) Notwithstanding paragraph (a) of this clause, the Contractor must submit any required safety plans before commencing any construction work.

(c) The Contractor shall diligently prosecute the work so as to achieve substantial completion of the work within the time specified in the contract. If the contract specifies different completion dates for different phases or portions of the work, the Contractor shall diligently prosecute the work so as to achieve substantial completion of such phases or portions of the work within the times specified.

(End of clause)

552.211-12 Liquidated Damages—Construction.

As prescribed in 511.503 (a), insert the following clause:

LIQUIDATED DAMAGES—CONSTRUCTION (MAR 2019)

FAR 52.211-12, Liquidated Damages-Construction, is supplemented as follows:

(a) If the Contractor fails to achieve substantial completion of the work within the time specified in the contract, the Contractor shall be liable to the Government for liquidated damages at the rate specified for each calendar day following the required completion date that the work is not substantially complete.

(b) If the contract requires different completion dates for different phases or portions of the work, the Contractor shall be liable for liquidated damages at the specified rate for each calendar day following the required completion date that the phase or portion of work is not substantially complete. If a single rate is specified, the specified rate shall be apportioned between the different phases or portions of the work.

(c) If the Government elects to accept any portion of the work not specifically designated as a phase or portion of work with its own required completion date, the liquidated damage rate shall be apportioned between accepted work and uncompleted work, and the Contractor's liability for liquidated damages shall be computed accordingly.

(End of clause)

552.211-13 Time Extensions.

As prescribed in 511.503 (b), insert the following clause:

TIME EXTENSIONS (MAR 2019)

FAR 52.211-13, Time Extensions, is supplemented as follows:

(a) If the Contractor requests an extension of the time for substantial completion, the Contractor shall base its request on an analysis of time impact using the project schedule as its baseline, and shall propose as a new substantial completion date to account for the impact. The Contractor shall submit a written request to the Contracting Officer setting forth facts and analysis in sufficient detail to enable the Contracting Officer to evaluate the Contractor's entitlement to an extension of time.

(b) The Contractor shall only be entitled to an extension of time to the extent that-

(1) Substantial completion of the work is delayed by causes for which the Contractor is not responsible under this contract; and

(2) The actual or projected substantial completion date is later than the date required by this contract for substantial completion.

(c) The Contractor shall not be entitled to an extension of time if the Contractor has not updated the project schedule in accordance with the contract.

(d) The Government shall not be liable for any costs to mitigate time impacts incurred by the Contractor that occur less than 30 calendar days after the date the Contractor submits a request for extension of time in compliance with this clause.

(End of clause)

552.211-70 Substantial Completion.

As prescribed in 511.404 (b), insert the following clause:

SUBSTANTIAL COMPLETION (MAR 2019)

(a) *General*. (1) For the purposes of FAR 52.211-10, Commencement, Prosecution and Completion of Work, and FAR 52.211-12, Liquidated Damages-Construction, the work shall be deemed complete when it is "substantially complete."

(2) There may be different completion dates required for different phases or portions of the work, as established in the contract. However, the work shall be deemed "substantially complete" if and only if the Contractor has completed the work and related contract obligations in accordance with the contract documents, such that the Government may enjoy the intended access, occupancy, possession, and use of the entire work without impairment due to incomplete or deficient work, and without interference from the Contractor's completion of remaining work or correction of deficiencies in completed work.

(3) In no event shall the work be deemed "substantially complete" if all fire and life safety systems are not tested and accepted by the authority having jurisdiction, where such acceptance is required under the contract.

(4) Unless otherwise specifically noted, or otherwise clear from context, all references in the contract to "acceptance" shall refer to issuance of a written determination of substantial completion by the Contracting Officer.

(b) *Notice of Substantial Completion*. (1) With reasonable advance notice, the Contractor shall submit to the Contracting Officer a written proposal recommending a substantial completion date.

(2) If the Contracting Officer takes exception to the notice of substantial completion, the Contractor shall be entitled to a written notice of conditions precluding determination of substantial completion. The Contractor shall only be entitled to an extension of time to address such conditions if, and to the extent that, the Contracting Officer provides notice of such conditions more than 30 calendar days after receipt of the notice of substantial completion.

(c) *Acceptance of Substantial Completion*. (1) The Contracting Officer shall conduct inspections and make a determination of substantial completion within a reasonable time.

(2) Substantial Completion shall be established by the Contracting Officer's issuance of a written determination specifying the date upon which the work is substantially complete.

(d) *Contract Completion*.

(1) The Contract is complete if and only if the Contractor has completed all work and related contract obligations, corrected all deficiencies and all punch list items, and complied with all conditions for final payment.

(2) The Contractor shall not be entitled to final payment or release of any retainage held by the Government until after contract completion. If the Contractor does not achieve contract completion within the time required by this contract, the Government shall be entitled, after providing notice to the Contractor, to complete any work remaining unfinished. The Contractor shall be liable to the Government for all costs incurred by the Government to complete such work.

(End of clause)

552.211-71 [Reserved]

552.211-72 Reference to Specifications in Drawings.

As prescribed in 511.204 (a), insert the following clause:

REFERENCES TO SPECIFICATIONS IN DRAWINGS (FEB 1996)

If military or other drawings are made a part of this contract, any reference in the drawings to Federal specifications or standards will be considered to be a reference to the date of such Federal specification or standard identified in the contract. If the date of the Federal specification or standard is not identified in the contract, the edition, including revisions thereto, in effect on the date the solicitation is issued will apply.

(End of clause)

552.211-73 Marking.

As prescribed in 511.204 (b)(1), insert the following clause:

MARKING (FEB 1996)

(a) *General requirements*. Interior packages, if any, and exterior shipping containers shall be marked as specified elsewhere in the contract. Additional marking requirements may be specified on delivery orders issued under the contract. If not otherwise specified, interior packages and exterior shipping containers shall be marked in accordance with the following standards:

(1) *Deliveries to civilian activities*. Supplies shall be marked in accordance with Federal Standard 123, edition in effect on the date of issuance of the solicitation.

(2) *Deliveries to military activities*. Supplies shall be marked in accordance with Military Standard 129, edition in effect on the date of issuance of the solicitation.

(b) *Improperly marked material*. When Government inspection and acceptance are at destination, and delivered supplies are not marked in accordance with contract requirements, the Government has the right, without prior notice to the Contractor, to perform the required marking, by contract or otherwise, and charge the Contractor therefore at the rate

specified elsewhere in this contract. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

(End of clause)

552.211-74 [Reserved]

552.211-75 Preservation, Packaging, and Packing.

As prescribed in 511.204 (b)(2), insert the following clause:

PRESERVATION, PACKAGING, AND PACKING (FEB 1996)

Unless otherwise specified, all items shall be preserved, packaged, and packed in accordance with normal commercial practices, as defined in the applicable commodity specification. Packaging and packing shall comply with the requirements of the Uniform Freight Classification and the National Motor Freight Classification (issue in effect at time of shipment) and each shipping container of each item in a shipment shall be of uniform size and content, except for residual quantities. Where special or unusual packing is specified in an order, but not specifically provided for by the contract, such packing details must be the subject of an agreement independently arrived at between the ordering agency and the Contractor.

(End of clause)

Alternate I (May 2003). As prescribed at 511.204(b)(2), substitute the following sentence for the last sentence of the basic clause:

Where special or unusual packing is specified in an order, but not specifically provided for by the contract, such packing details must be the subject of an agreement independently arrived at between the ordering activity and the Contractor.

552.211-76 Charges for Packaging, Packing, and Marking.

As prescribed in 511.204 (b)(3), insert a clause substantially as follows:

CHARGES FOR PACKAGING, PACKING, AND MARKING (JAN 2010)

If supplies shipped to a GSA wholesale distribution center are not packaged, packed and marked in accordance with contract requirements, the Government has the right, without prior notice to the Contractor, to perform the required repackaging/repacking/remarking, by contract or otherwise, and charge the Contractor therefore at the rate of $___* per man-hour or fraction thereof. The Contractor will also be charged for material costs, if incurred. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

*The rate to be inserted in the above clause shall be determined by the Commissioner, Federal Acquisition Service, or a designee.

(End of clause)

552.211-77 Packing List.

As prescribed in 511.204 (c) insert the following clause:

PACKING LIST (FEB 1996)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate:

(1) Name and address of the consignor;

(2) Name and complete address of the consignee;

(3) Government order or requisition number;

(4) Government bill of lading number covering the shipment (if any); and

(5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Government commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include:

(1) Cardholder name and telephone number and

(2) The term "Credit Card."

(End of clause)

Alternate I (May 2003). As prescribed at 511.204(c), substitute the following paragraphs (a)(3) and (b) for (a)(3) and (b) of the basic clause:

(a)(3) Ordering activity order or requisition number;

(b) When payment will be made by Ordering activity commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include:

(c) Cardholder name and telephone number; and

(d) The term "Credit Card."

552.211-78 [Reserved]

552.211-79 Acceptable Age of Supplies.

As prescribed in 511.404 (a)(1), insert the following clause:

ACCEPTABLE AGE OF SUPPLIES (FEB 1996)

The supplies furnished under this contract shall not be more than _____ months old, beginning with the first full month after the date of manufacture marked on the container. For the purpose of this clause, supplies shall be considered to be furnished (1)when they are offered to the Government for inspection and testing, or (2)on the date of shipment if shipment is authorized to be made without prior inspection by the Government. If the age of the supplies furnished under this contract is greater than the specified period, the Government may exercise its right to reject the supplies.

(End of clause)

Alternate I (Feb 1996). As prescribed in 511.404 (a)(1)(i), substitute the following sentence for the first sentence of the basic clause:

The supplies furnished under this contract shall not be more than Enter value:Enter value:Enter value:_____ days old, beginning with the date of manufacture (month, day, year) marked on the container.

552.211-80 Age on Delivery.

As prescribed in 511.404 (a)(1) insert the following clause:

AGE ON DELIVERY (FEB 1996)

Included in the description of each shelf-life item is a statement regarding the "age on delivery." The age of the item(s) shall not exceed the number of months shown in the item description, counted from the first day of the month after the month of manufacture to the date of delivery to the specified delivery point(s). If the age of the supplies delivered under this contract is greater than the number of months shown, the Government may exercise its right to reject the supplies.

(End of clause)

552.211-81 Time of Shipment.

As prescribed in 511.404 (a)(2), insert the following clause:

TIME OF SHIPMENT (FEB 1996)

Shipment is required within_____ calendar days after receipt of order.

(End of clause)

Alternate I (Feb 1996). As prescribed in 511.404 (a)(2), add the following paragraph to the basic clause:

Each delivery order will specify that shipment is required no later than the number of days shown above. If such order also states that "Early Shipment is Precluded," the Contractor agrees to make shipment no sooner than _____ calendar days after receipt of order. Earlier shipments may result in nonacceptance of the supplies at the delivery point at the time of arrival.

(The second number to be inserted should be 15calendar days less than the first number.)

552.211-82 [Reserved]

552.211-83 Availability for Inspection, Testing, and Shipment/Delivery.

As prescribed in 511.404 (a)(3), insert the following clause:

AVAILABILITY FOR INSPECTION, TESTING, AND SHIPMENT/DELIVERY (FEB 1996)

(a) The Government requires that the supplies be made avail-able for inspection and testing within _____ *[Insert "shipped" or "delivered"]* _____* calendar days after receipt of *[Insert "Notice of Award" or "order"]* , and be _____ *[Insert "shipped" or "delivered"]* _____within _____ *[Insert "shipped" or "delivered"]* _____* calendar days after receipt of (1)notice of approval and release by the Government inspector or (2)authorization to ship without Government inspection.

(b) Failure to make supplies available for inspection and testing or to *[Insert "ship" or "deliver"]* as required by this clause may result in termination of this contract for default.

(End of clause)

Alternate I (Feb 1996). As prescribed in 511.404 (a)(3), add the following paragraph (b) to the basic clause and redesignate paragraph (b) of the basic clause accordingly.

(b)If notice of approval and release by the Government inspector or authorization to ship without Government inspection is received before _____ _____ *[Insert "Notice of Award" or "order"]* _____* calendar days after receipt of the *[Insert "Notice of Award" or "order"]* , receipt of such notice shall be deemed to be received on the _____ _____ *[Insert "Notice of Award" or "order"]* _____* calendar day after receipt of _____ _____ *[Insert "Notice of Award" or "order"]* _____. Shipments shall not be made before the _____ _____ *[Insert "Notice of Award" or "order"]* _____* calendar day after receipt of the *[Insert "Notice of Award" or "order"]* unless authorized in writing by the Contracting Officer.

**Entries are normally the same number of days specified for availability.*

552.211-84 [Reserved]

552.211-85 Consistent Pack and Package Requirements.

As prescribed in 511.204 (b)(4), insert the following clause:

CONSISTENT PACK AND PACKAGE REQUIREMENTS (JAN 2010)

The Contractor is advised that the Government will, where possible, order in full shipping containers and/or unitized loads. If volume warrants, the Government may also order in truckload or carload quantities provided such quantities do not exceed the maximum order limitation of this contract.

When the number of items per unit container, intermediate container and/or shipping container is not specified for an item, the offeror will state, in the spaces provided in the schedule of items, the number of items to be provided in each container. The quantities which are accepted at the time of award shall remain in effect throughout the term of the contract unless the

Contracting Officer approves in writing a request by the Contractor to change the package quantities. Requests for changes shall be directed to the Contracting Officer or Administrative Contracting Officer, whichever is applicable.

(End of clause)

552.211-86 Maximum Weight per Shipping Container.

As prescribed in 511.204 (b)(5), insert the following clause:

MAXIMUM WEIGHT PER SHIPPING CONTAINER (JAN 2010)

In no instance shall the weight of a shipping container and its contents exceed 23 kilograms (51 pounds), except when caused by—

(a) The weight of a single item within the shipping container;

(b) A prescribed quantity per pack for an item per shipping container; or

(c) A definite weight limitation set forth in the purchase description.

(End of clause)

552.211-87 Export Packing.

As prescribed in 511.204 (b)(6), insert the following clause:

EXPORT PACKING (JAN 2010)

(a) Offerors are requested to quote, in the pricelist accompanying their offer (or by separate attachment), additional charges or net prices covering delivery of the items furnished with commercial or military export packing. Military export packing, if offered, shall be in accordance with Mil-Std-2073-1 Level A or B as specified. If commercial export packing is offered, the offer or pricelist shall include detailed specifications describing the packing to be furnished at the price quoted.

(b) Ordering activities will not be obligated to utilize the Contractor's services for export packing accepted under this solicitation, and they may obtain such services elsewhere if desired. However, the Contractor shall furnish items export packed when such packing is specified on the purchase order.

(End of clause)

552.211-88 Vehicle Export Preparation.

As prescribed in 511.204 (b)(7), insert the following clause:

VEHICLE EXPORT PREPARATION (JAN 2010)

Vehicles shall be prepared for export on wheels, unboxed, unless otherwise specified in the Schedule of Items. All parts and equipment easily removable (subject to pilferage) shall be enclosed in a box substantially secured to the vehicle (inside body if feasible) in such a manner as to minimize the possibility of loss or damage while in transit to ultimate destination.

(End of clause)

552.211-89 Non-manufactured Wood Packaging Material for Export.

As prescribed in 511.204 (b)(8), insert the following clause:

NON-MANUFACTURED WOOD PACKAGING MATERIAL FOR EXPORT (JUL 2016)

(a) Definitions:

IPPC Country: Countries of the European Union (EU) or any other country endorsing the International Plant Protection Convention (IPPC) "Guidelines for Regulating Wood Packaging Material in International Trade," approved March 15, 2002. A listing of countries participating in the IPPC is found athttp://www.aphis.usda.gov/import_export/plants/plant_exports/wpm/country/index.shtml.

Non-manufactured wood, is also called solid wood and defined as wood packing other than that comprised wholly of wood-based products such as plywood, particle board, oriented strand board, veneer, wood wool, and similar materials, which has been created using glue, heat and pressure or a combination thereof.

Packaged material, and solid wood packing material (SWPM), for purposes of this clause, is defined as each separate and distinct material that by itself or in combination with other materials forms the container providing a means of protecting and handling a product. This includes, but is not limited to, pallets, dunnage, crating, packing blocks, drums, load boards, pallet collars, and skids.

(b) Non-manufactured wood pallets and other non-manufactured wood packaging material used to pack items for delivery to or through IPPC countries must be marked and properly treated in accordance with IPPC guidelines.

(c) This requirement applies whether the shipment is direct to the end user or through a Government designated consolidation point. Packaging that does not conform to IPPC guidelines will be refused entry, destroyed or treated prior to entry.

(d) For Department of Defense distribution facilities or freight consolidation points, all non-manufactured wood pallets or packaging material with a probability of entering countries endorsing the IPPC Guidelines must be treated and marked in accordance with DLAD 47.305-1 (available at http://farsite.hill.af.mil/archive/Dlad/Rev5/PART47.htm),and MIL-STD-2073-1, Standard Practice for Military Packaging (and any future revision).

(e) Pallets and packing material shipped to FAS distribution facilities designated for possible delivery to the countries endorsing the IPPC Guidelines will comply with DLAD 47.305-1, and MIL-STD-2073-1.

(f) Delays in delivery caused by non-complying pallets or wood package material will not be considered as beyond the control of the Contractor. Any applicable Government expense incurred as a result of the Contractor's failure to provide appropriate pallets or package material shall be reimbursed by the Contractor. Expenses may include the applicable cost for repackaging, handling and return shipping, or the destruction of solid wood packaging material.

(End of clause)

552.211-90 Small Parts.

As prescribed in 511.204 (b)(9), insert the following clause:

SMALL PARTS (JAN 2010)

All small parts required to be furnished with machines covered by contracts resulting from this solicitation shall be packed in envelopes, sealed, identified with part numbers and quantity on outside of envelopes. Larger parts must be individually tagged and identified with part number on face of tag.

(End of clause)

552.211-91 Vehicle Decals, Stickers, and Data Plates.

As prescribed in 511.204 (b)(10), insert the following clause:

VEHICLE DECALS, STICKERS, AND DATA PLATES (JAN2010)

Unless otherwise specified, caution plates/decals shall be conspicuously installed for all equipment requiring such notices. Vehicles for civil agencies shall be provided with the manufacturer's current warranty legend imprinted on decalcomania, and applied in a visible area of the engine compartment. In addition, a decal or sticker shall provide at least the following

information: contract number; purchase order number; date of delivery, month and year; and the warranty time, in month and miles.

(End of clause)

552.211-92 Radio Frequency Identification (RFID) Using Passive Tags.

As prescribed in 511.204 (b)(11), insert the following clause:

RADIO FREQUENCY IDENTIFICATION (RFID) USING PASSIVE TAGS (JAN 2010)

Radio Frequency Identification shall be required on all non-bulk shipments to the Defense Logistics Agency (DLA) or Department of Defense (DoD) destinations. Shipments shall be tagged in accordance with 48 CFR clause 252.211-7006. Shipments to GSA Distribution Centers with final destinations to DLA and DoD shall be in compliance to 48 CFR 252.211-7006. Copies may be obtained from http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.

(End of clause)

552.211-93 [Reserved]

552.211-94 Time of Delivery.

As prescribed at 511.404(a)(4), insert the following clause:

TIME OF DELIVERY (JAN 2010)

An "X" mark in the left hand block shall be considered a mandatory requirement to be fulfilled by the contractor.

	The Contractor will ship contract item(s) to the Federal Acquisition Service (FAS) stocking points identified in the delivery order at its discretion in order to maintain the required stock levels within the minimum and maximum requirements provided in the weekly status report.
Enter value:	Delivery is required to be made at destination within *Enter value:_____* calendar days after receipt of order for deliveries to a GSA facility.
Enter value:	Orders under this contract may require direct delivery to other agencies. Orders for direct delivery must be shipped and delivered within the time specified in blocks below.
Enter value:	Shipment must be made with *Enter value:_____* days after receipt of order.
Enter value:	In addition to block above the Contractor must also ensure that delivery will be made within *Enter value:_____* days after receipt of order.

(End of clause)

552.212 [Reserved]

552.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION).

As prescribed in 512.301(b), replace subparagraph (g)(2), paragraph (s), and paragraph (u) of FAR clause 52.212-4. Also, add paragraph (w) to FAR clause 52.212-4:

CONTRACT TERMS AND CONDITIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEVIATION FAR 52.212-4) (JAN 2023)

(g)(2) The due date for making invoice payments by the designated payment office is the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, Unauthorized Obligations, and Commercial Supplier Agreements - Unenforceable Clauses paragraphs of this clause.

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any commercial supplier agreements as amended by the Commercial Supplier Agreements -Unenforceable Clauses provision.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449. (8)

(8) Other documents, exhibits, and attachments.

(9) The specification.

(u) Unauthorized Obligations. (1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the Government to pay any future fees, penalties, interest, legal costs or to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such language, provision, or clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification or any other payment by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(w) *Commercial supplier agreements unenforceable clauses.*When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the U.S. Government, the following shall apply:

(i) *Applicability*. This agreement is a part of a contract between the commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license or other similar legal instrument (including all contracts, task orders, and delivery orders under FAR 12).

(ii) *End user.* This agreement shall bind the ordering activity as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in his or her personal capacity.

(iii) *Law and disputes*. This agreement is governed by Federal law.

(A) Any language purporting to subject the U.S. Government to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) *Continued performance*. The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the Government except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (d) (Disputes).

(v) *Arbitration; equitable or injunctive relief*. In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the U.S. Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) *Updating terms*. (A) After award, the contractor may unilaterally revise commercial supplier agreement terms: if they are not material. A material change is defined as:

(1) Terms that change Government rights or obligations;

(2) Terms that increase Government prices;

(3) Terms that decrease overall level of service; or

(4) Terms that limit any other Government right addressed elsewhere in this contract.

(B) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(C) Any agreement license terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provision of this contract shall not be enforceable against the Government, and the Government shall not be deemed to have consented to them.

(vii) *No automatic renewals*. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized Government representative.

(viii) *Indemnification*. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) *Audits*. Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order.

(B) This charge, if disputed by the ordering activity, will be resolved in accordance with subparagraph (d) (Disputes) through the Disputes clause at 552.212-4(d); no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the Government.

(x) *Taxes or surcharges*. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

(xi) *Non-assignment*. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under subparagraph (b) of this clause.

(xii) *Confidential information*. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the contract price list, as applicable, shall be deemed “confidential information.” Issues regarding release of “unit pricing” will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevail to the extent of such inconsistency.

(End of clause)

552.212-70 [Reserved]

552.212-71 Contract Terms and Conditions Applicable to GSA Acquisitions of Commercial Products and Commercial Services.

As prescribed in 512.301 (a)(1), insert the following clause:

CONTRACT TERMS AND CONDITIONS APPLICABLE TO GSA ACQUISITIONS OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (OCT 2023)

The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial products, including commercial components, and commercial services. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The Contracting Officer should check the clauses in paragraph (b) that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity. The GSAR clauses in paragraph (b) of this section are incorporated by reference.

[The Contracting Officer should check the clauses that apply or delete the clauses that do not apply from the list. The Contracting Officer may add the date of the clause if desired for clarity.]

(b) *Clauses*.

552.203-71	Restriction on Advertising
552.211-73	Marking
552.219-70	Allocation of Orders—Partially Set-Aside Items
552.229-70	Federal, State, and Local Taxes
552.232-72	Final Payment Under Building Services Contracts
552.237-71	Qualifications of Employees
552.242-70	Status Report of Orders and Shipments

(End of clause)

552.212-72 Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Products and Commercial Services.

As prescribed in 512.301 (a)(2), insert the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (OCT 2023)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The contracting officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the lists in paragraphs (a) and (b). The contracting officer may add the date of the provision or clause if desired for clarity. The GSAR provisions in paragraph (a) and GSAR clauses in paragraph (b) are incorporated by reference.

(a) *Provisions*.

_____ 552.223-72 Hazardous Material Information

(b) *Clauses*.

_____	552.215-70 Examination of Records by GSA.	Examination of Records by GSA
_____	552.223-70	Hazardous Substances
_____	552.223-71	Nonconforming Hazardous Material
_____	552.223-73	Preservation, Packaging, Packing, Marking, and Labeling of Hazardous Materials (HAZMAT) for Shipments.
_____	552.232-23	Assignment of Claims

(End of clause)

552.212-73 [Reserved]

552.214 [Reserved]

552.214-70 "All or None" Bids.

As prescribed in 514.201-6 , insert the following provision:

"ALL OR NONE" BIDS (OCT 2009)

(a) The Government reserves the right to evaluate bids and make awards on an "all or none" basis as provided below.

A bid submitted on an "all or none" or similar basis will be evaluated as follows: The lowest acceptable bid exclusive of the "all or none" bid will be selected with respect to each item (or group of items when the solicitation provides for aggregate awards) and the total cost of all items thus determined shall be compared with the total of the lowest acceptable "all or none" bid. Award will be made to result in the lowest total cost to the Government.

(End of provision)

552.214-71 [Reserved]

552.214-72 Bid Sample Requirements.

As prescribed in 514.202-4 (a)(3), insert the following provision:

BID SAMPLE REQUIREMENTS (OCT 2009)

This provision supplements FAR52.214-20, which is incorporated by reference. Samples shall be from the production of the manufacturer whose products will be supplied under resultant contracts.

(a) Two bid samples are required for each of the following items in this solicitation:

_____

(b) Two representative samples shall be submitted for each of the following items upon which a bid is submitted:

Items	Acceptable Representative Samples

NOTE: Bidders that propose to furnish an item or group of items from more than one manufacturer or production point must submit two samples from the production of each manufacturer or production point.

(c) Samples will be evaluated to determine compliance with all characteristics listed below:

Subjective Characteristics	Objective Characteristics

(d) Forward samples addressed to the Sample Room indicated below. Except for samples delivered by U.S. Mail, deliveries will be accepted between the hours of _____ Mondays through Fridays, official holidays excluded.

CAUTION: *USE PROPER ADDRESS FOR METHOD OF SHIPMENT SELECTED.*

Mail and Parcel Post ***[Insert Address of Bid Sample Room]***	**Freight or Express** ***[Insert address of Bid Sample Room]***

(e) Contracting Officer insert address.

(End of provision)

552.215 [Reserved]

552.215-70 Examination of Records by GSA.

As prescribed in 515.209-70 (a) insert the following clause:

EXAMINATION OF RECORDS BY GSA (JUN 2016)

The Contractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term “subcontract” as used in this clause excludes (a) purchase

orders not exceeding the simplified acquisition threshold and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(End of clause)

552.215-71 [Reserved]

552.215-72 [Reserved]

552.215-73 Notice.

As prescribed in 515.209-70 (c), insert the following clause:

NOTICE (JUL 2016)

(a) The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090-0163.

(b) GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Requests for pre-award debriefings postmarked or otherwise submitted after 4:30 p.m. will be considered submitted the following business day. Requests for post-award debriefings delivered after 4:30 p.m. will be considered received and filed the following business day.

(End of clause)

552.216 [Reserved]

552.216-71 Economic Price Adjustment—Special Order Program Contracts.

As prescribed in 516.203-4 (a), insert the following clause:

ECONOMIC PRICE ADJUSTMENT—SPECIAL ORDER PROGRAM CONTRACTS (AUG 2010)

(a) "Producer Price Index" (PPI), as used in this clause, means the originally released index, not seasonally adjusted, published by the Bureau of Labor Statistics, U.S. Department of Labor (Labor) for product code _____ found under Table _____

(b) During the term of the contract, the award price may be adjusted once during each 12-month period upward or downward. However, if an upward adjustment, a maximum of _____* percent shall apply. Any price adjustment for the product code shall be based upon the percentage change in the PPI released in the month prior to the initial month of the contract period specified in *the* solicitation for sealed bidding or the month prior to award in negotiation (the base index) and the PPI released 12months later (the updated index). The formula for determining the Adjusted Contract Price (ACP) applicable to shipments for the balance of the contract period is—

$$ACP = \frac{\text{Updated Index}}{\text{Base Index}} \times \text{Award Price}$$

(c) If the PPI is not available for the month of the base index or the updated index, the month with the most recently published PPI prior to the month determining the base index or updated index shall be used.

(d) If a product code is discontinued, the Government and the Contractor will mutually agree to substitute a similar product code. If Labor designates an index with a new title and/or code number as continuous with the product code specified above, the new index shall be used.

(e) Unless the Contractor's written request for a price adjustment resulting from the application of the formula in paragraph (b) of this clause is received by the Contracting Officer within 30calendar days of the release of the updated index, the Contractor shall have waived its right to an upward price adjustment for the balance of the contract. Alternatively, the

Contracting Officer will unilaterally adjust the award price downward when appropriate using the updated index defined in paragraph (b) of this clause.

(f) Price adjustments shall be effective upon execution of a contract modification by the Government or on the 31*st*— day following the release of the updated index, whichever is later, shall indicate the updated index and percent of change as well as the ACP, and shall not apply to delivery orders issued before the effective date.

(End of clause)

Alternate I (AUG 2010). As prescribed in 516.203-4 (a)(1) and (2), substitute the following paragraphs (b), (e), and (f) for paragraphs (b), (e), and (f) of the basic clause:

(b) Once during each 12-month period, the contract price may be adjusted upward or downward a maximum of _____* percent.

(1) For the first option period, any price adjustment for the product code shall be based upon the percentage change in the PPI released in the month prior to the initial month of the contract period specified in the solicitation for sealed bidding or the month prior to award in negotiation (the base index) and the PPI released in the third month before completion of the initial contract period stated in the solicitation (the updated index). This initial contract period may be less than 12months. The formula for determining the Adjusted Contract Price (ACP) applicable to shipments during the first option period is—

$$\text{ACP} = \frac{\text{Updated Index}}{\text{Base Index}} \times \text{Award Price}$$

(2) For any subsequent option period, the price adjustment shall be the percentage change between the previously updated index (the new base index) and the PPI released 12months later (the most recent updated index). This percentage shall be applied to the Current Contract Price (CCP). The formula for determining the ACP applicable to shipments for the subsequent option period(s) is—

$$\text{ACP} = \frac{\text{Most Recent Updated Index}}{\text{New Base Index}} \times CCP$$

(e) Unless the Contractor's written request for a price adjustment resulting from the application of the formulas in paragraphs (b)(1) or (2) of this clause is received by the Contracting Officer within 30 calendar days of the date of the Government's preliminary written notice of its intent to exercise the option, the Contractors shall have waived its right to an upward price adjustment for that option period. Alternatively, the Contracting Officer in its written notice shall exercise the option at the CCP or at a reduced price when appropriate using the formulas in paragraphs (b)(1) or (2) of this clause.

(f) Price adjustments shall be effected by execution of a contract modification by the Government indicating the most recent updated index and percent of change and shall apply to delivery orders placed on or after the first day of the option period.

Alternate II (AUG 2010). As prescribed in 516.203-4 (a)(2), add the following paragraph (g) to the basic clause.

(g) No price adjustment will be made unless the percentage change in the PPI is at least _____* percent.

The Contracting Officer should insert a lower percent than the maximum percentage stated in paragraph (b) of the clause.

552.216-72 Placement of Orders.

As prescribed in 516.506 (a), insert the following clause:

PLACEMENT OF ORDERS (JAN 2016)

(a) Delivery orders (orders) will be placed by:

[Contracting Officer insert names of Federal agencies]

(b) Orders may be placed through Electronic Data Interchange (EDI) or mailed in paper form. EDI orders shall be placed using the American National Standards Institute (ANSI) X12 Standard for Electronic Data Interchange (EDI) format.

(c) If the Contractor agrees, General Services Administration's Federal Acquisition Service (FAS) will place all orders by EDI using computer-to-computer EDI. If computer-to-computer EDI is not possible, FAS will use an alternative EDI method allowing the Contractor to receive orders by facsimile transmission. Subject to the Contractor's agreement, other agencies may 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 Federal agency 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. Federal agencies may obtain a sample format to customize as needed from the office specified in paragraph (g) of this clause.

(e) The Contractor shall be responsible for providing its own hardware and software necessary to transmit and receive data electronically. Additionally, each party to the TPA shall be responsible for the costs associated with its use of third party provider services.

(f) Nothing in the TPA will invalidate any part of this contract between the Contractor and the General Services Administration. All terms and conditions of this contract that otherwise would be applicable to a mailed order shall apply to the electronic order.

(g) The basic content and format of the TPA will be provided by: General Services Administration, Office of the Chief Information Officer (I). Contact information can be found at: http://www.gsa.gov/portal/category/21404.

(End of clause)

Alternate I (AUG 2010). As prescribed in 516.506 (a), 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 Acquisition Service (FAS). 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, FAS 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 FAS 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.

552.216-73 Ordering Information.

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

ORDERING INFORMATION (AUG 2010)

(a) In accordance with the Placement of Orders clause of this solicitation, the offeror elects to receive orders placed by GSA's Federal Acquisition Service (FAS) 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.

Enter value:

(c) An offeror electing to receive orders by facsimile transmission is requested to indicate below the telephone number(s) for facsimile transmission equipment where orders should be forwarded.

Enter value:

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

Enter value:

(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.

(End of provision)

Alternate I (SEP 1999). As prescribed in 516.506 (b), delete paragraph (d) of the basic provision and redesignate paragraph (e) accordingly.

552.216-74 [Reserved]

552.216-75 Transactional Data Reporting.

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

TRANSACTIONAL DATA REPORTING (MAY 2023)

(a) *Definition.* "Transactional data" encompasses the historical details of the products or services delivered by the Contractor during the performance of task or delivery orders issued against this contract.

(b) *Reporting of Transactional Data*. The Contractor must report all transactional data under this contract as follows:

(1) The Contractor must electronically report transactional data by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. GSA will post registration instructions and reporting procedures on the Vendor Support Center website, https://vsc.gsa.gov. The reporting system website address, as well as registration instructions and reporting procedures, will be provided at the time of award or inclusion of this clause in the contract.

(2) The Contractor must provide, at no additional cost to the Government, the following transactional data elements, as applicable:

(i) Contract or Blanket Purchase Agreement (BPA) Number.
(ii) Delivery/Task Order Number/Procurement Instrument Identifier (PIID).
(iii) Non Federal Entity.
(iv) Description of Deliverable.
(v) Manufacturer Name.
(vi) Manufacturer Part Number.
(vii) Unit Measure (each, hour, case, lot).
(viii) Quantity of Item Sold.
(ix) Universal Product Code.
(x) Price Paid per Unit.
(xi) Total Price.

Note to paragraph (b)(2): The Contracting Officer may add data elements to the standard elements listed in paragraph (b)(2) of this section with the approvals listed in GSAM (b)(3).

(3) The Contractor must report transactional data within 30 calendar days from the last calendar day of the month. If there was no contract activity during the month, the Contractor must submit a confirmation of no reportable transactional data within 30 calendar days of the last calendar day of the month.

(4) The Contractor must report the price paid per unit, total price, or any other data elements with an associated monetary value listed in (b)(2) of this section, in U.S. dollars.

(5) The Contractor must maintain a consistent accounting method of transactional data reporting, based on the Contractor's established commercial accounting practice.

(6) *Reporting Points*. (i) The acceptable points at which transactional data may be reported include–

(A) Issuance of an invoice; or

(B) Receipt of payment.

(ii) The Contractor must determine whether to report transactional data on the basis of invoices issued or payments received.

(7) The Contractor must continue to furnish reports, including confirmation of no transactional data, through physical completion of the last outstanding task or delivery order issued against the contract.

(8) Unless otherwise expressly stated by the ordering activity, orders that contain classified information or other information that would compromise national security are exempt from this reporting requirement.

(9) This clause does not exempt the Contractor from fulfilling existing reporting requirements contained elsewhere in the contract.

(10) GSA reserves the unilateral right to change reporting instructions following 60 calendar days' advance notification to the Contractor.

(c) Contract Access Fee (CAF). (1) GSA's operating costs are reimbursed through a CAF charged on orders placed against this contract. The CAF is paid by the ordering activity but remitted to GSA by the Contractor. GSA has the unilateral right to change the fee structure at any time, but not more than once per year; GSA will provide reasonable notice prior to the effective date of any change.

(2) Within 60 calendar days of award or inclusion of this clause in the contract, a GSA representative will provide the Contractor with specific written procedural instructions on remitting the CAF, including the deadline by which the Contractor must remit the CAF. The deadline specified in the written procedural instructions will be no less than 30 calendar days after the last calendar day of the month. GSA reserves the unilateral right to change remittance instructions following 60 calendar days' advance notification to the Contractor.

(3) The Contractor must remit the CAF to GSA in U.S. dollars.

(4) The Contractor's failure to remit the full amount of the CAF within the specified deadline 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 Improvement Act of 1996, including withholding or offsetting payments and interest on the debt (see FAR clause 52.232-17, Interest). If the Contractor fails to submit the required sales reports, falsifies them, or fails to timely pay the CAF, these reasons constitute sufficient cause for the Government to terminate the contract for cause.

(End of clause)

552.216-76 [Reserved]

552.217 [Reserved]

552.217-70 Evaluation of Options.

As prescribed in 517.208 (a), insert the following provision:

EVALUATION OF OPTIONS (JUL 2016)

(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.

(End of provision)

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 48CFR517.207.

(End of provision)

552.219 [Reserved]

552.219-18 Notification of Competition Limited to Eligible 8(a) Participants (DEVIATION FAR 52.219-18).

As prescribed in 519.870-2 Contract clauses.(a), insert the following clause:

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) PARTICIPANTS (MAY 2024) (DEVIATION FAR 52.219-18)

(a) Offers are solicited only from:

(1) Small business concerns expressly certified by the Small Business Administration (SBA) for participation in SBA's 8(a) Program and which meet the following criteria at the time of submission of offer—

(i) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

(ii) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(2) A joint venture, in which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause, that complies with 13 CFR 124.513(c); or

(3) A joint venture—

(i) That is comprised of a mentor and an 8(a) protégé with an approved mentor-protégé agreement under the 8(a) program;

(ii) In which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause; and

(iii) That complies with 13 CFR 124.513(c).

(b) By submission of its offer, the Offeror represents that it meets the applicable criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation. A Contracting Officer may consider a joint venture for contract award. SBA does not approve joint ventures for competitive awards, but see 13 CFR 124.501(g) for SBA's determination of participant eligibility.

(d) The Contractor will notify the Contracting Officer in writing immediately upon entering any agreement (either oral or written) to transfer all or part of its stock.

(End of clause)

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

As prescribed in 519.507 , 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)

552.219-74 Section8(a)Direct Award.

As prescribed in 519.870-2 (a), insert the following clause:

SECTION 8(A) DIRECT AWARD (SEP 1999)

(a) This contract is issued as a direct award between the contracting activity and the 8(a)Contractor pursuant to the Memorandum of Understanding between the Small Business Administration (SBA) and the General Services Administration. SBA retains the responsibility for 8(a)certifications, 8(a)eligibility determinations, and related issues, and will provide counseling and assistance to the 8(a)contractor under the 8(a)program. The cognizant SBA district office is:

[Complete at time of award]

(b) The contracting activity is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract. However, the contracting activity shall give advance notice to SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting activity shall also coordinate with SBA prior to processing any advance payments or novation agreements. The contracting activity may assign contract administration functions to a contract administration office.

(c) The Contractor agrees:

(1) To notify the Contracting Officer, simultaneous with its notification to SBA (as required by SBA's 8(a)regulations), when the owner or owners upon whom 8(a)eligibility is based plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control.

(2) To the requirements of 52.219-14, Limitations on Subcontracting.

(End of clause)

552.223 [Reserved]

552.223-70 Hazardous Substances.

As prescribed in 523.303 (a), insert the following clause:

HAZARDOUS SUBSTANCES (MAY 1989)

(a) If the packaged items to be delivered under this contract are of a hazardous substance and ordinarily are intended or considered to be for use as a household item, this contract is subject to the Federal Hazardous Materials Act, as amended

(15 U.S.C.1261-1276), implementing regulations thereof (16CFRChapterII), and Federal Standard No.123, Marking for Shipment (Civil Agencies), issue in effect on the date of this solicitation.

(b) The packaged items to be delivered under this contract are subject to the preparation of shipping documents, the preparation of items for transportation, shipping container construction, package making, package labeling, when required, shipper's certification of compliance, and transport vehicle placarding in accordance with Parts171 through 178 of 49CFRand the Hazardous Materials Transportation Act.

(c) The minimum packaging acceptable for packaging Department of Transportation regulated hazardous materials shall be those in 49CFR173.

(End of clause)

552.223-71 Nonconforming Hazardous Materials.

As prescribed in 523.303 (b), insert the following clause:

NONCONFORMING HAZARDOUS MATERIALS (SEP 1999)

(a) Nonconforming supplies that contain hazardous material or that may expose persons who handle or transport the supplies to hazardous material and which require replacement under the inspection and/or warranty clauses of this contract shall be reshipped to the Contractor at the Contractor's expense. The Contractor agrees to accept return of these nonconforming supplies and to pay all costs occasioned by their return.

(b) "Hazardous materials," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No.313 (including revisions adopted during the term of the contract).

(c) If the Contractor fails to provide acceptable disposition instructions for the nonconforming supplies within 10days from the date of the Government's request (or such longer period as may be agreed to between the Contracting Officer and the Contractor), or fails to accept return of the reshipped nonconforming supplies, such failure:

(1) May be interpreted as a willful failure to perform,

(2) May result in termination of the contract for default and

(3) Shall be considered by the Contracting Officer in determining the responsibility of the Contractor for any future award (see FAR9.104-3(b) and 9.406-2).

(d) Pending final resolution of any dispute, the Contractor shall promptly comply with the decision of the Contracting Officer.

(End of clause)

552.223-72 Hazardous Material Information.

As prescribed in 523.370 , insert the following provision:

HAZARDOUS MATERIAL INFORMATION (SEP 1999)

Offeror shall indicate for each national stock number (NSN) the following information:

NSN	DOT Shipping Name	DOT Hazard Class	DOT Label Required
			Yes[]No[]
			Yes[]No[]
			Yes[]No[]

(End of provision)

552.223-73 Preservation, Packaging, Packing, Marking, and Labeling of Hazardous Materials (HAZMAT) For Shipments.

As prescribed in 523.303 (c), insert the following clause:

PRESERVATION, PACKAGING, PACKING, MARKING, AND LABELING OF HAZARDOUS MATERIALS (HAZMAT) FOR SHIPMENTS (JUN 2015)

(a) *Definition*. "United States," as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii, and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking, and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

(1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).

(2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM-D, shall be packaged in accordance with the IMDG Code and dual-marked with both Consumer Commodity and IMDG marking and labeling.)

(3) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR 1910.1200.

(4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.

(5) AFMAN 24-204, Air Force Inter-Service Manual, Preparing Hazardous Materials For Military Air Shipments.

(6) Any preservation, packaging, packing, marking, and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking, and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

(1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180.

(2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR 1910.1200.

(3) Any preservation, packaging, packing, marking, and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24-204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN-approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

(End of clause)

552.227 [Reserved]

552.227-70 Government Rights (Unlimited).

As prescribed in 527.409 (a), insert the following clause:

GOVERNMENT RIGHTS (UNLIMITED) (MAY 1989)(DEVIATION FAR 52.227-17)

The Government shall have unlimited rights in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor

for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

552.227-71 Drawings and Other Data to Become Property of Government.

As prescribed in 527.409 (b), substitute the following clause:

DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (MAY 1989)(DEVIATION FAR 52.227-17)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under Section201(b) of Title17, United States Code. With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of works beyond such period.

(End of clause)

552.228 [Reserved]

552.228-5 Government as Additional Insured.

As prescribed in 528.310 , insert the following clause:

GOVERNMENT AS ADDITIONAL INSURED (JAN2016)

(a) This clause supplements the requirements set forth in FAR clause 52.228-5, Insurance–Work on a Government Installation.

(b) Each insurance policy required under this contract, other than workers' compensation insurance, shall contain an endorsement naming the United States as an additional insured with respect to operations performed under this contract. The insurance carrier is required to waive all subrogation rights against any of the named insured.

(End of clause)

552.229 [Reserved]

552.229-70 Federal, State, and Local Taxes.

As prescribed in 529.470 (a), insert the following clause:

FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

(End of clause)

552.229-71 Federal Excise Tax—DC Government.

As prescribed in 529.470 (b), insert the following clause:

FEDERAL EXCISE TAX—DC GOVERNMENT (SEP 1999)

If the District of Columbia cites an Internal Revenue Tax Exempt Certificate Number on orders placed under this contract, the Contractor shall bill shipments to the District of Columbia at prices exclusive of Federal excise tax and show the amount of such tax on the invoice.

(End of clause)

552.232 [Reserved]

552.232-1 [Reserved]

552.232-5 Payments under Fixed-Price Construction

As prescribed in 532.111 , insert the following clause:

PAYMENTS UNDER FIXED-PRICE CONSTRUCTION (MAR 2019)

FAR 52.232-5, Payments under Fixed-Price Construction Contracts, is supplemented as follows:

(a) Before submitting a request for payment, the Contractor shall, unless directed otherwise by the Contracting Officer, attend pre-invoice payment meetings, as scheduled, with the designated Government representative for the purpose of facilitating review and approval of payment requests. Payment meetings will be conducted and may be in person. The Contractor shall provide documentation to support the prospective payment request.

(b) The Contractor shall submit its invoices to the Contracting Officer, unless directed otherwise by the Contracting Officer. Separate payment requests shall be submitted for progress payments, payments of retainage, and partial or final payments.

(c) The Contractor shall use GSA Form 2419 *Certification of Progress Payments Under Fixed-Price Construction Contracts* to provide the certification required under FAR 52.232-5(c).

(d) The Contractor shall use GSA Form 1142 *Release of Claims* to provide the certification required under FAR 52.232-5(h).

(e) If an invoice does not meet the requirements of FAR 52.232-27 and GSAM 552.232-27, the Contracting Officer may return the invoice to the Contractor without payment for correction. If the Contracting Officer disputes the requested payment amount, the Government may pay the portion of the requested payment that is undisputed.

(f) GSA will not be obligated to issue final payment unless the Contractor has furnished to the Contracting Officer a release of claims against the Government relating to the contract, and submitted all required product warranties, as-built drawings, operating manuals, and other items as specified in the contract. The Contractor may reserve from the release specific claims only if such claims are explicitly identified with stated claim amounts.

(End of clause)

552.232-23 Assignment of Claims.

As prescribed in 532.806 , insert the following clause:

ASSIGNMENT OF CLAIMS (SEP1999)

Because this is a requirements or indefinite quantity contract under which more than one agency may place orders, paragraph(a) of the Assignment of Claims clause (FAR52.232-23) is inapplicable and the following is substituted therefor:

In order to prevent confusion and delay in making payment, the Contractor shall not assign any claim(s) for amounts due or to become due under this contract. However, the Contractor is permitted to assign separately to a bank, trust company, or other financial institution, including any Federal lending agency, under the provisions of the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereinafter referred to as “the Act”), all amounts due or to become due under any order amounting to $1,000 or more issued by any Government agency under this contract. Any such assignment takes

effect only if and when the assignee files written notice of the assignment together with a true copy of the instrument of assignment with the contracting officer issuing the order and the finance office designated in the order to make payment. Unless otherwise stated in the order, payments to an assignee of any amounts due or to become due under any order assigned may, to the extent specified in the Act, be subject to reduction or set-off.

(End of clause)

552.232-25 Prompt Payment.

As prescribed in 532.908 (b)(2), insert the following clause:

PROMPT PAYMENT (JAN 2022) (DEVIATION FAR 52.232-25)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph 552.232-25 Prompt Payment. on page 28 of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments.* (1) The due date for making invoice payments by the designated payment office is:

(i) For orders placed electronically by the General Services Administration (GSA) Federal Acquisition Service (FAS), and to be paid by GSA through electronic funds transfer (EFT), the later of the following two events:

(A) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(B) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.

(ii) For all other orders, the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor.

(iii) On a final invoice, if the payment amount is subject to contract settlement actions, acceptance occurs on the effective date of the contract settlement.

(2) The General Services Administration will issue payment on the due date in paragraph (a)(1)(i) of this clause if the Contractor complies with full cycle electronic commerce. Full cycle electronic commerce includes all the following elements:

(i) The Contractor must receive and fulfill electronic data interchange (EDI) purchase orders (transaction set 850).

(ii) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) or submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.

(iii) The Contractor’s financial institution must receive and process, on behalf of the Contractor, EFT payments through the Automated Clearing House (ACH) system.

(iv) The EDI transaction sets in paragraphs (a)(2)(i) through (a)(2)(iii) of this clause must adhere to implementation conventions provided by GSA.

(3) If any of the conditions in paragraph (a)(2) of this clause do not occur, the 10 day payment due dates in (a)(1) become 30 day payment due dates.

(4) *Certain food products and other payments*. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable

poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7thday after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7thday after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (*e.g.*,periodic lease payments), the due date will be as specified in the contract.

(5) *Contractor's invoice*. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. Notwithstanding paragraph (g) of the clause at FAR 52.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services, if the Contractor submits hard-copy invoices, submit only an original invoice. No copies of the invoice are required. A proper invoice must include the items listed in paragraphs (a)(5)(i) through (a)(5)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in paragraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (*e.g.*,shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(6) *Interest penalty*. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(6)(i) through (a)(6)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(7) *Computing penalty amount*. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (*e.g.*,tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in paragraph 552.232-25 Prompt Payment. on page 28 of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(8) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in paragraph 552.232-25 Prompt Payment. on page 28 of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(9) *Additional interest penalty*. (i) If this contract was awarded on or after October 1,1989, a penalty amount, calculated in accordance with paragraph (a)(9)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty of $1 or more;

(B) Is not paid the interest penalty within 10days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(9)(ii) of this clause, postmarked not later than 40days after the invoice amount is paid.

(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except—

(1) The additional penalty shall not exceed $5,000;

(2) The additional penalty shall never be less than $25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than $1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in paragraph (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g.,payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*. (1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the Enter value:*[insert day as prescribed by Agency head; if not prescribed, insert 30thday]* day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(End of clause)

552.232-39 Unenforceability of Unauthorized Obligations.

As prescribed in 532.706-3 , insert the following clause:

UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (FEB 2018)(DEVIATION FAR 52.232-39)

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the Government to pay any future fees, penalties, interest, legal costs or to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(1) Any such language, provision, or clause is unenforceable against the Government.

(2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such language, provision, or clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier agreement is

invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(b) Paragraph (a) of this clause does not apply to indemnification or any other payment by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of clause)

552.232-70 [Reserved]

552.232-71 [Reserved]

552.232-72 Final Payment Under Building Services Contracts.

As prescribed in 532.908 (a), insert the following clause:

FINAL PAYMENT UNDER BUILDING SERVICES CONTRACTS (MAR 2012)

Before final payment is made, the Contractor shall complete and furnish the Contracting Officer with GSA Form 1142, Release of Claims, releasing all claims against the Government relating to this contract, other than claims in stated amounts that are specifically excepted by the Contractor from the release. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 3727, 41 U.S.C. 15), a release may also be required of the assignee.

(End of clause)

552.232-73 [Reserved]

552.232-74 [Reserved]

552.232-75 [Reserved]

552.232-76 [Reserved]

552.232-77 [Reserved]

552.232-78 Commercial Supplier Agreements–Unenforceable Clauses.

As prescribed in 532.706-3 (b), insert the following clause:

COMMERCIAL SUPPLIER AGREEMENTS–UNENFORCEABLE CLAUSES (FEB 2018)

When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(a) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the U.S. Government, the following shall apply:

(1) *Applicability*. This agreement is part of a contract between the commercial supplier and the U.S. Government for the acquisition of the supply or service that necessitates a license or other similar legal instrument (including all contracts, task orders, and delivery orders under FAR Parts 13, 14 or 15).

(2) *End user*. This agreement shall bind the ordering activity as end user but shall not operate to bind a Government employee or person acting on behalf of the Government in his or her personal capacity.

(3) *Law and disputes*. This agreement is governed by Federal law.

(i) Any language purporting to subject the U.S. Government to the laws of a U.S. state, U.S. territory, district, or municipality, or foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(ii) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(iii) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(4) *Continued performance*. The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the Government except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in FAR 52.233-1, Disputes.

(5) *Arbitration; equitable or injunctive relief*. In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the U.S. Government only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(6) Updating terms. (i) After award, the contractor may unilaterally revise commercial supplier agreement terms provided: if they are not material. A material change is defined as:

(A) Terms that significantly change Government rights or obligations;

(B) Terms that increase Government prices;

(C) Terms that decrease overall level of service; or

(D) Terms that limit any other Government right addressed elsewhere in this contract.

(ii) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(iii) Any license agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provision of this contract shall not be enforceable against the Government, and the Government shall not be deemed to have consented to them.

(7) *No automatic renewals*. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized Government representative.

(8) *Indemnification*. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(9) *Audits*. Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(i) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying Government contract or order.

(ii) This charge, if disputed by the ordering activity, will be resolved through the Disputes clause at FAR 52.233-1; no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(iii) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the Government.

(10) *Taxes or surcharges*. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the Government as end user will be governed by the terms of the underlying Government contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the Government contract.

(11) *Non-assignment*. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the Government's prior approval, except as expressly permitted under the clause at FAR 52.232-23, Assignment of Claims.

(12) *Confidential information*. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the Federal Supply Schedule contract price list, as applicable, shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of

Information Act. Notwithstanding anything in this agreement to the contrary, the Government may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(b) If any language, provision or clause of this agreement conflicts or is inconsistent with the preceding paragraph (a), the language, provisions, or clause of paragraph (a) shall prevail to the extent of such inconsistency.

552.236 [Reserved]

552.236-6 Superintendence by the Contractor.

As prescribed in 536.506 , insert the following clause:

SUPERINTENDENCE BY THE CONTRACTOR (MAR 2019)

The requirements of the clause entitled "Superintendence by the Contractor" at FAR 52.236-6, are supplemented as follows:

(a) The Contractor shall employ sufficient management and contract administration resources, including personnel responsible for project management, field superintendence, change order administration, estimating, coordination, inspection, and quality control, to ensure the proper execution and timely completion of the contract. The Contractor shall designate a principal of the firm or other senior management official to provide executive oversight and problem resolution resources to the project for the life of the contract.

(b) The Contractor shall employ, and require its subcontractors to employ, qualified personnel to perform the contract. The Government reserves the right to exclude, or remove from the site or building, any personnel for reasons of incompetence, carelessness, or insubordination, who violate rules and regulations concerning conduct on federal property, or whose continued employment on the site is otherwise deemed by the Government to be contrary to the public interest.

(c) The Contractor shall be responsible for coordinating all activities of subcontractors, including all of the following activities:

(1) Preparation of shop drawings produced by different subcontractors where their work interfaces or may potentially conflict or interfere.

(2) Scheduling of work by subcontractors.

(3) Installation of work by subcontractors.

(4) Use of the project site for staging and logistics.

(d) Repeated failure or excessive delay to meet the superintendence requirements by the Contractor may be deemed a default for the purposes of the termination for default clause.

(End of clause)

552.236-11 Use and Possession Prior to Completion.

As prescribed in 536.511 , insert the following clause:

USE AND POSSESSION PRIOR TO COMPLETION. (MAR 2019)

Exercise by the Government of the right conferred by FAR 52.236-11 shall not relieve the Contractor of responsibility for completing any unfinished components of the work.

(End of clause)

552.236-15 Schedules for Construction Contracts.

As prescribed in 536.515 , insert the following clause:

SCHEDULES FOR CONSTRUCTION CONTRACTS (MAR 2019)

The requirements, of the clause entitled "Schedules for Construction Contracts" at FAR 52.236-15, are supplemented as follows:

(a) *Purpose*. The project schedule shall be a rational, reasonable, and realistic plan for completing the work, and conform to the requirements specified in this clause and elsewhere in the contract. The Contractor understands and acknowledges that the preparation and proper management of the project schedule is a material component of the contract.

(b) *Use of the schedule*. The Contracting Officer shall be entitled, but not required, to rely upon the project schedule to evaluate the Contractor's progress, evaluate entitlement to extensions of time, and determine the criticality or float of any activities described in such project schedule.

(c) Submission. Prior to notice to proceed, or such other time as may be specified in the contract, the Contractor shall submit the project schedule.

(d) *Milestones*. The project schedule shall incorporate milestone events specified in the contract, including, as applicable, notice to proceed, substantial completion, and milestones related to specified work phases and site restrictions. The project schedule shall also include Contractor-defined milestones to identify target dates for critical events, based upon the Contractor's chosen sequence of work.

(e) *Activities*. The project schedule shall depict all major activities necessary to complete the work.

(f) *Schedule of values*. (1) The Contractor shall prepare and submit for approval a cost breakdown of the Contract price, to be referred to as the "schedule of values", assigning values to each major activity necessary to complete the work.

(2) Values must include all direct and indirect costs, although a separate value for bond costs may be established.

(3) The schedule of values must contain sufficient detail to enable the Contracting Officer to evaluate applications for payment.

(g) *Conflicting terms*. (1) If at any time the Contracting Officer finds that the project schedule does not comply with any contract requirement, the Contracting Officer will provide written notice to the Contractor.

(2) Within 30 calendar days of written notice, or such other time as may be specified, from the Contracting Officer, the Contractor shall take one of the following actions:

(i) Revise the project schedule.

(ii) Adjust activity progress.

(iii) Provide sufficient information demonstrating compliance.

(3) If the Contractor fails to sufficiently address the Contracting Officer's exceptions to the project schedule, the Contracting Officer may-

(i) Withhold retainage until the project is substantially complete or until such time as the Contractor has complied with project schedule requirements; or

(ii) Terminate the contract for default.

(h) *Revisions to the schedule*. If the Contractor revises the project schedule after initial approved submission, the Contractor shall provide in writing a narrative describing the substance of the revision, the rationale for the revision, and the impact of the revision on the projected substantial completion date and the available float for all activities. The addition of detail to prospective activities shall not be deemed a revision if the overall duration of the detailed activity does not change.

(i) *Updates*. Unless a different period for updates is specified elsewhere, the Contractor shall update the project schedule weekly to reflect actual progress in completing the work, and submit the updated project schedule by the following Monday.

(End of clause)

Alternate I (MAR 2019). As prescribed in 536.515 (a), substitute the following paragraphs (c), (e), (h), and (i) for paragraphs (c), (e), (h), and (i) of the basic clause:

(c) *Submission*. Within 30 calendar days of notice to proceed, or such other time as may be specified in the contract, the Contractor shall submit the project schedule, together with a written narrative describing the major work activities, activities on the critical path, and major constraints underlying the sequence and logic of the project schedule.

(e) *Activities*. (1) The Contractor shall use a critical path method project schedule to plan, coordinate, and perform the work.

(2) The project schedule shall depict all activities necessary to complete the work, including, as applicable, all submittal and submittal review activities, all procurement activities, and all field activities, including mobilization, construction, start-up, testing, balancing, commissioning, and punchlist.

(3) Activities shall be sufficiently detailed and limited in duration to enable proper planning and coordination of the work, effective evaluation of the reasonableness and realism of the project schedule, accurate monitoring of progress, and reliable analysis of schedule impacts.

(4) Activity durations shall be based upon reasonable and realistic allocation of the resources required to complete each activity, given physical and logistical constraints on the performance of the work. All logic shall validly reflect physical or logistical constraints on relationships between activities. Except for the first and last activities in the project schedule, each activity shall have at least one predecessor and one successor relationship to form a logically connected network plan from notice to proceed to the contract completion date.

(h) *Revisions to the schedule.* (1) The Contractor should anticipate that the initial submittal of the project schedule will be subject to review and may require revision. The Contractor shall devote sufficient resources for meetings, revisions, and resubmissions of the project schedule to address any exceptions taken to the initial submittal. The Contractor understands and acknowledges that the purpose of the initial review and resolution of exceptions is to maximize the usefulness of the project schedule for contract performance.

(2) If the Contractor revises the project schedule after initial approved submission, the Contractor shall provide in writing a narrative describing the substance of the revision, the rationale for the revision, and the impact of the revision on the projected substantial completion date and the available float for all activities. The addition of detail to prospective activities shall not be deemed a revision if the overall duration of the detailed activity does not change.

(i) *Updates*. Unless a different period for updates is specified elsewhere, the Contractor shall update the project schedule monthly to reflect actual progress in completing the work, and submit the updated project schedule within 5 working days of the end of each month.

Alternate II (MAR 2019). As prescribed in 536.515 (b), substitute the following paragraphs (c), (e), and (i) for paragraphs (c), (e), and (i) of the basic clause:

(c) *Submission*. (1) Within 30 calendar days of notice to proceed, or such other time as may be specified in the contract, the Contractor shall submit the project schedule, together with a written narrative describing the major design and construction activities. The project schedule may indicate construction activities in summary form prior to completion of final design documents

(2) Within 30 calendar days of completion of final design documents, the Contractor shall submit a revised project schedule depicting all activities necessary to complete construction work activities, together with a written narrative describing the major work activities, activities on the critical path, and major constraints underlying the sequence and logic of the project schedule.

(e) *Activities*. (1) The Contractor shall use a critical path method project schedule to plan, coordinate, and perform the work.

(2) Activities shall be sufficiently detailed and limited in duration to enable proper planning and coordination of the work, effective evaluation of the reasonableness and realism of the project schedule, accurate monitoring of progress, and reliable analysis of schedule impacts.

(3) Activity durations shall be based upon reasonable and realistic allocation of the resources required to complete each activity, given physical and logistical constraints on the performance of the work. All logic shall validly reflect physical or logistical constraints on relationships between activities. Except for the first and last activities in the project schedule, each activity shall have at least one predecessor and one successor relationship to form a logically connected network plan from notice to proceed to the contract completion date.

(i) *Updates*. Unless a different period for updates is specified elsewhere, the Contractor shall update the project schedule monthly to reflect actual progress in completing the work, and submit the updated project schedule within 5 working days of the end of each month.

Alternate III (Jan 2020). As prescribed in 536.515 (c), substitute the following paragraphs (c), (e), (h), and (i) for paragraphs (c), (e), (h), and (i) of the basic clause:

(c) *Submission.* (1) Within 30 calendar days of contract award, or such other time as may be specified in the contract, the Contractor shall submit the design phase project schedule.

(2) Within 30 calendar days after establishing the final estimated cost of work, the Contractor shall submit the construction phase project schedule, together with a written narrative describing the major work activities, activities on the critical path, and major constraints underlying the sequence and logic of the project schedule.

(e) *Activities.* (1) The design phase project schedule shall depict all activities necessary to complete the design work, including, as applicable, all submittal and submittal review activities, cost reconciliation, and establishing the estimated cost of work for the construction phase.

(2) The Contractor shall use a critical path method project schedule to plan, coordinate, and perform the construction phase work.

(3) The construction phase project schedule shall depict all activities necessary to complete the construction work, including, as applicable, all submittal and submittal review activities, all procurement activities, and all field activities, including mobilization, construction, start-up, testing, balancing, commissioning, and punchlist.

(4) Activities shall be sufficiently detailed and limited in duration to enable proper planning and coordination of the work, effective evaluation of the reasonableness and realism of the project schedule, accurate monitoring of progress, and reliable analysis of schedule impacts.

(5) Activity durations shall be based upon reasonable and realistic allocation of the resources required to complete each activity, given physical and logistical constraints on the performance of the work. All logic shall validly reflect physical or logistical constraints on relationships between activities. Except for the first and last activities in the project schedule, each activity shall have at least one predecessor and one successor relationship to form a logically connected network plan from notice to proceed to the contract completion date.

(h) *Revisions to the schedule.* (1) The Contractor should anticipate that the project schedule will be subject to review and may require revision. The Contractor shall devote sufficient resources for meetings, revisions, and resubmissions of the project schedule to address any exceptions taken. The Contractor understands and acknowledges that the purpose of the review and resolution of exceptions is to maximize the usefulness of the project schedule for contract performance.

(2) If the Contractor proposes a revision to the project schedule after initial approved submission, the Contractor shall provide in writing a narrative describing the substance of the revision, the rationale for the revision, and the impact of the revision on the projected substantial completion date and the available float for all activities.

(i) *Updates.* Unless a different period for updates is specified elsewhere, the Contractor shall update the project schedule monthly to reflect actual progress in completing the work, and submit the updated project schedule within 5 working days of the end of each month.

552.236-21 Specifications and Drawings for Construction.

As prescribed in 536.521 , insert the following clause:

SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (MAR 2019)

The requirements of the clause entitled "Specifications and Drawings for Construction" at FAR 52.236-21, are supplemented as follows

(a) In case of difference between small and large-scale drawings, the large-scale drawings shall govern.

(b) Schedules on any contract drawing shall take precedence over conflicting information on that or any other contract drawing.

(c) On any of the drawings where a portion of the work is detailed or drawn out and the remainder is shown in outline, the parts detailed or drawn out shall apply also to all other like portions of the work.

(d) Where the word "similar" occurs on the drawings, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the work.

(e) Standard details or specification drawings are applicable when listed, bound with the specifications, noted on the drawings, or referenced elsewhere in the specifications.

(1) Where notes on the specification drawings indicate alterations, such alterations shall govern.

(2) In case of difference between standard details or specification drawings and the specifications, the specifications shall govern.

(3) In case of difference between the standard details or specification drawings and the drawings prepared specifically for this contract, the drawings prepared specifically for this contract shall govern.

(f) Different requirements within the contract documents shall be deemed inconsistent only if compliance with both cannot be achieved.

(g) Unless otherwise noted, the drawings shall be interpreted to provide for a complete construction, assembly, or installation of the work, without regard to the detail with which material components are shown in the drawings.

(End of clause)

Alternate I (DEC 2022). As prescribed in 536.521 (a), add the following paragraph to the basic clause:

(h) For the purposes of this clause, specifications and drawings refer only to those included among the contract documents, and not to those produced by the Contractor pursuant to its responsibilities under the contract.

Alternate II (JAN 2020). As prescribed in 536.521 (b), add the following paragraph to the basic clause:

(h) For the purposes of this clause, specifications and drawings refer only to the construction documents, meaning the 100 percent complete specifications and construction drawings developed during the design phase.

552.236-70 Authorities and Limitations.

As prescribed in 536.570 , insert the following clause:

AUTHORITIES AND LIMITATIONS (MAR 2019)

(a) All work shall be performed under the general direction of the Contracting Officer, who alone shall have the power to bind the Government and to exercise the rights, responsibilities, authorities and functions vested in him by the contract documents, except that he shall have the right to designate authorized representatives to act for him. Wherever any provision in this contract specifies an individual (such as, but not limited to, Construction Engineer, Resident Engineer, Inspector or Custodian) or organization, whether Governmental or private, to perform any act on behalf of or in the interests of the Government, that individual or organization shall be deemed to be the Contracting Officer's authorized representative under this contract but only to the extent so specified. The Contracting Officer may, at any time during the performance of this contract, vest in any such authorized representatives additional power and authority to act for him or designate additional representatives, specifying the extent of their authority to act for him; a copy of each document vesting additional authority in an authorized representative or designating an additional authorized representative shall be furnished to the Contractor.

(b) The Contractor shall perform the contract in accordance with any order (including but not limited to instruction, direction, interpretation, or determination) issued by an authorized representative in accordance with his authority to act for the Contracting Officer; but the Contractor assumes all the risk and consequences of performing the contract in accordance with any order (including but not limited to instruction, direction, interpretation, or determination) issued by an authorized representative in accordance with his authority to act for the ion) of anyone not authorized to issue such order.

(End of clause)

552.236-71 Contractor Responsibilities.

As prescribed in 536.571 , insert the following clause:

CONTRACTOR RESPONSIBILITIES (MAR 2019)

(a) The Contractor shall be responsible for compliance with applicable codes, standards and regulations pertaining to the health and safety of personnel during performance of the contract.

(b) Unless expressly stated otherwise in the contract, the Contractor shall be responsible for all means and methods employed in the performance of the contract.

(c) The Contractor shall immediately bring to the Contracting Officer's attention any hazardous materials or conditions not disclosed in the contract documents discovered by or made known to the Contractor during the performance of the contract.

(d) The Contractor shall be responsible for providing professional design services in connection with performance of the work or portions of the work only if this responsibility is expressly stated in the contract, and the contract documents provide the performance and design criteria that such services will be required to satisfy. In the performance of such work, the Contractor shall be responsible for retaining licensed design professionals, who shall sign and seal all drawings, calculations,

specifications and other submittals that the licensed professional prepares. The Contractor shall be responsible for, and GSA shall be entitled to rely upon, the adequacy and completeness of all professional design services provided under the contract.

(e) Where installation of separate work components as shown in the contract will result in conflict or interference between such components or with existing conditions, including allowable tolerances, it is the Contractor's responsibility to bring such conflict or interference to the attention of the Contracting Officer and seek direction before fabrication, construction, or installation of any affected work. If the Contractor fabricates, constructs, or installs any work prior to receiving such direction, the Contractor shall be responsible for all cost and time incurred to resolve or mitigate such conflict or interference.

(f) Where drawings show work without specific routing, dimensions, locations, or position relative to other work or existing conditions, and such information is not specifically defined by reference to specifications or other information supplied in the contract, the Contractor is responsible for routing, dimensioning, and locating such work in coordination with other work or existing conditions in a manner consistent with contract requirements.

(g) It is not the Contractor's responsibility to ensure that the contract documents comply with applicable laws, statutes, building codes and regulations. If it comes to the attention of the Contractor that any of the contract documents do not comply with such requirements, the Contractor shall promptly notify the Contracting Officer in writing. If the Contractor performs any of the work prior to notifying and receiving direction from the Contracting Officer, the Contractor shall assume full responsibility for correction of such work, and any fees or penalties that may be assessed for non-compliance.

(End of clause)

Alternate I (DEC 2022). As prescribed in 536.571 (a), substitute the following paragraphs (d), (e), (f), and (g) for paragraphs (d), (e), (f), and (g) of the basic clause:

(d) The Contractor shall be responsible for providing professional design services unless this responsibility is expressly excluded from the contract. In the performance of such work, the Contractor shall be responsible for retaining licensed design professionals, who shall sign and seal all drawings, calculations, specifications and other submittals that the licensed professional prepares. The Contractor shall be responsible for, and GSA shall be entitled to rely upon, the adequacy and completeness of all professional design services provided under the contract.

(e) The Contractor's responsibilities include the responsibilities of the Architect-Engineer Contractor, as specified in FAR 52.236-23.

(f) The Contractor shall include in all subcontracts that require professional design services express terms establishing GSA as a third party beneficiary. No other person shall be deemed a third party beneficiary of the contract.

(g) The Contractor shall determine whether the information contained in the contract documents complies with applicable laws, statutes, building codes and regulations. If it comes to the attention of the Contractor that any of the contract documents do not comply with such requirements, the Contractor shall promptly notify the Contracting Officer in writing. If the Contractor performs any of the work prior to notifying and receiving direction from the Contracting Officer, the Contractor shall assume full responsibility for correction of such work, and any fees or penalties that may be assessed for non-compliance.

Alternate II (JAN 2020). As prescribed in 536.571 (b), delete paragraphs (d), (e), (f), and (g) of the basic clause, and insert paragraphs (d), (e), (f), (g), (h), (i), and (j) as follows:

(d) The Contractor shall be responsible for performing the design phase services in accordance with the statement of work. The Contractor shall submit all deliverables and reports in accordance with the statement of work.

(e) The Contractor shall be responsible to review all design information (e.g. draft specifications and drawings) provided. The Contractor shall be responsible for determining that the project as described in the design information is constructible using commercially practicable means and methods; that the construction work is described in the design documents with sufficient completeness to enable pricing of a complete project within the guaranteed maximum price; and that the manner of presentation and organization of information in the design documents enables accurate estimation of the cost of the work.

(f) Prior to establishment of the final estimated cost of work, the Contractor shall bring to the Contracting Officer's attention all instances that it has discovered or has been made aware of where design errors and omissions affect the Contractor's ability to accurately estimate the cost of the work.

(g) Where installation of separate work components as shown in the contract will result in conflict or interference between such components or with existing conditions, including allowable tolerances, it is the Contractor's responsibility to bring such conflict or interference to the attention of the Contracting Officer and seek direction before fabrication, construction,

or installation of any affected work. If the Contractor fabricates, constructs, or installs any work prior to receiving such direction, the Contractor shall be responsible for all cost and time incurred to resolve or mitigate such conflict or interference.

(h) Where drawings show work without specific routing, dimensions, locations, or position relative to other work or existing conditions, and such information is not specifically defined by reference to specifications or other information supplied in the contract, the Contractor is responsible for routing, dimensioning, and locating such work in coordination with other work or existing conditions in a manner consistent with contract requirements.

(i) It is not the Contractor's responsibility to ensure that the contract documents comply with applicable laws, statutes, building codes and regulations. If it comes to the attention of the Contractor that any of the contract documents do not comply with such requirements, the Contractor shall promptly notify the Contracting Officer in writing. If the Contractor performs any of the work prior to notifying and receiving direction from the Contracting Officer, the Contractor shall assume full responsibility for correction of such work, and any fees or penalties that may be assessed for non-compliance.

(j) The Contractor is responsible to construct the project in accordance with the drawings and specifications. The final Estimated Cost of the Construction Work (ECW) may be determined based upon incomplete design documents. In those instances in which the drawings and specifications are not complete at the time the final ECW is established, the Contractor shall exercise reasonable care and judgment to determine the intent of the design and shall calculate the final ECW on the basis of the quality of construction, materials, and finishes that can be reasonably inferred from the design documents or other specified sources.

552.236-72 Submittals.

As prescribed in 536.572 , insert the following clause:

SUBMITTALS (MAR 2019)

(a) The Contractor shall prepare and submit all submittals as specified in the contract or requested by the Contracting Officer.

(1) Submittals may include: safety plans, schedules, shop drawings, coordination drawings, samples, calculations, product information, or mockups.

(2) Shop drawings may include fabrication, erection and setting drawings, manufacturers' scale drawings, wiring and control diagrams, cuts or entire catalogs, pamphlets, descriptive literature, and performance and test data.

(b) Unless otherwise provided in this contract, or otherwise directed by the Contracting Officer, submittals shall be submitted to the Contracting Officer.

(c) The Contractor shall be entitled to receive notice of action on submittals within a reasonable time, given the volume or complexity of the submittals and the criticality of the affected activities to substantial completion as may be indicated in the project schedule

(d) Review of submittals will be general and shall not be construed as permitting any departure from the contract requirements.

(e) The Contractor shall not proceed with construction work or procure products or materials described or shown in submittals until the submittal is reviewed. Any work or activity undertaken prior to review shall be at the Contractor's risk. Should the Contracting Officer subsequently determine that the work or activity does not comply with the contract, the Contractor shall be responsible for all cost and time required to comply with the Contracting Officer's determination. The Contracting Officer shall have the right to order the Contractor to cease execution of work for which submittals have not been reviewed. The Government shall not be liable for any cost or delay incurred by the Contractor attributable to the proper exercise of this right.

(f) The Contractor shall identify, in writing, all deviations or changes in resubmitted submittals. In the absence of such written notice, review of a resubmission shall not include or apply to such deviations or changes.

(End of clause)

Alternate I (MAR 2019). As prescribed in 536.572 add the following paragraph to the basic clause:

(g) The Contractor shall submit design documents for review in accordance with PBS-P100. The Government shall review submittals for the limited purpose of verifying that the documents conform to the design criteria expressed in the contract documents.

552.236-73 Subcontracts.

As prescribed in 536.573 , insert the following clause:

SUBCONTRACTS (APR 1984)

(a) Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors, or to limit the work performed by any trade.

(b) The Contractor shall be responsible to the Government for acts and omissions of his own employees and of subcontractors and their employees. He shall also be responsible for the coordination of the work of the trades, subcontractors and suppliers.

(c) The Government will not undertake to settle any differences between or among the Contractor, subcontractors, or suppliers.

(End of clause)

552.236-74 Evaluation of Options.

As prescribed in 536.270-5 (a), insert a provision substantially the same as the following provision:

EVALUATION OF OPTIONS (MAR 2019)

The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)

552.236-75 Evaluation Exclusive of Options.

As prescribed in 536.270-5 (b), insert a provision substantially the same as the following clause:

EVALUATION EXCLUSIVE OF OPTIONS (MAR 2019)

The Government will evaluate offers for award purposes by including only the price for the basic requirement. Options will not be included in the evaluation for award purposes.

(End of provision)

552.236-76 Basis of Award— Sealed Bidding Construction.

As prescribed in 536.270-5 (c), insert a provision substantially the same as the following provision:

BASIS OF AWARD - SEALED BIDDING CONSTRUCTION (MAR 2019)

A bid may be rejected as nonresponsive if the bid is materially unbalanced as to bid prices. A bid is unbalanced when the bid is based on prices significantly less than cost for some work and significantly overstated for other work.

(End of provision)

Alternate I (Mar 2019). As prescribed in 536.270-5 (c), redesignate the basic provision as paragraph (a) and add the following paragraph (b) to the basic provision:

(b)(1) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for:

(i) The base requirement; plus

(ii) All options designated to be evaluated.

(2) The evaluation of options will not obligate the Government to exercise the options.

552.236-77 Government's Right to Exercise Options.

As prescribed in 536.270-5 (d), insert a clause substantially the same as the following clause:

GOVERNMENT'S RIGHT TO EXERCISE OPTIONS. (MAR 2019)

(a) The Government may exercise any option in writing in accordance with the terms and conditions of the contract within Enter value:Enter value:_____ *[insert the period of time within which the Contracting Officer may exercise the option]*. Unless otherwise specified, options may be exercised within 90 calendar days of contract award.

(b) If the Government exercises the option, the contract shall be considered to include this option clause.

(End of clause)

552.236-79 Construction-Manager-As-Constructor.

As prescribed in 536.7107 (a), insert a clause substantially the same as the following clause:

CONSTRUCTION-MANAGER-AS-CONSTRUCTOR. (JAN 2020)(DEVIATION FAR 52.216-17)

(a) *General.* Pricing for the Guaranteed Maximum Price (GMP) for the option for construction services shall be subject to the requirements below.

(b) *Definitions.* The following definitions shall apply to this clause:

"Construction-Manager-as-Constructor (CMc) Contingency Allowance (CCA)" means an allowance for the exclusive use of the construction contractor to cover reimbursable costs during construction that are not the basis of a change order. These costs could include estimating, scheduling, and planning errors in the final Estimated Cost of the Work (ECW) or other contractor errors.

"Cost" means allowable costs in accordance with FAR Part 31.

"Cost of Performance" means the final sum of cost of the construction work and fee for the construction work.

"Early Work Package" means a set of construction activities that can be clearly defined and separately performed from the remainder of the construction work. Demolition is an example of an early work package.

"Estimated Cost of the Work (ECW)" means the estimated cost of the construction work, not including home office overhead.

"Fee for the Construction Work" means the amount established for the contractor's profit and home office overhead costs, as described in FAR Part 31, for the construction work.

"Guaranteed Maximum Price (GMP)" means the sum of the ECW, CCA, and the fee for the construction work.

(c) *Guaranteed Maximum Price.* This contract at award includes a GMP.

(d) *Estimated Cost of the Work.* The proposed ECW incorporated into the contract at award is a target ECW. A final ECW is negotiated during the design phase and is incorporated into the contract prior to exercise of the GMP option.

(e) *Final Estimated Cost of the Work.*

(1) *Submission Requirements for Final ECW Proposal.* During the design phase, and at a time agreed by the Contracting Officer, the Contractor shall submit the following:

(i) A detailed statement of all construction costs, including early work packages in the performance of the construction work to date;

(ii) A detailed breakdown of home office overhead costs and a statement that the accounting practices used for the allocation of home office overhead on this contract is in accordance with the Contractor's established cost accounting practices;

(iii) A proposed final ECW;

(iv) Sufficient data to support the accuracy and reliability of the estimate;

(v) An explanation of the difference between the proposed final ECW and the target ECW used to establish the GMP; and

(vi) The Contractor's affirmation that:

(A) The Contractor is satisfied that the project as described in the specifications and construction drawings is constructible using commercially practicable means and methods;

(B) The Contractor is satisfied that the construction work has been sufficiently described to enable it to estimate the cost of the work with reasonable accuracy;

(C) The Contractor has disclosed to the Contracting Officer all of its actual knowledge relating to design errors and omissions that may affect the cost of the work; and

(D) The Contractor acknowledges that the final ECW and time established for completion shall not be adjusted on account of cost or time attributable to known design errors and omissions disclosed by the Contractor pursuant to paragraph (e)(1)(v)(C) of this clause. Unknown design errors and omissions that form the basis for a change order may still be settled in accordance with GSAR 552.243-71 Equitable Adjustments.

(2) *Establishment of the Final ECW*. The parties shall negotiate a final ECW based on the data provided under paragraph (e)(1) of this clause. The final ECW shall be established and incorporated into the Contract by bilateral modification. The Contracting Officer will not accept a final ECW proposal that does not include the written affirmation described in this clause. The Contracting Officer will not exercise the GMP option for construction work unless the final ECW has been incorporated into the contract.

(f) *CMc Contingency Allowance.* The CCA shall be____ percent of the ECW [*Contracting Officer insert percentage amount*].

(g) *Shared Savings Incentive.* The Contractor shall be entitled to ____ percent of the difference between the final GMP and the final cost of performance [*Contracting Officer insert percentage amount*].

(h) *Adjustment of ECW and GMP.* The ECW and GMP shall be subject to adjustment for changes and any other conditions giving rise to entitlement to an adjustment under this contract. The ECW and GMP may be adjusted down for deletions to the scope of the construction services through a bilateral modification.

(i) *Adjustment of CCA.* If the sum of the final ECW, CCA, and fee for the construction work is greater than the GMP as established at contract award or as adjusted in accordance with FAR Part 43, then the Contractor should work with the Contracting Officer to identify measures to reduce the overall GMP, including reducing the CCA, reducing the fee, or as a last resort, reducing the scope of the project. At any time, the parties may agree to a different CCA than the amount expressed at time of contract award. Prior to the use of the CCA, the Contractor shall coordinate approval following the procedures identified in the contract. For approved CCA uses, the CCA shall be reduced and the ECW shall be adjusted accordingly.

(j) *Adjustment of the Fee for the Construction Work.* The fee for the construction work may be adjusted for changes that are the basis for a change order, including scope changes, differing site conditions, and Government-caused delays. The fee for the construction work associated with a change order shall not be driven by a fixed percentage. The fee for the construction work is not increased or decreased based on fluctuations in the actual costs of the work. At time of proposal submission, the fee elements may be expressed as a percentage of the ECW, but shall be converted to a fixed amount prior to executing the GMP option.

(k) *Conversion to Firm-Fixed-Price Prior to Final Settlement.*

(1) *Submission Requirements for Conversion to Firm-Fixed Price.* If the parties agree to negotiate and establish a firm-fixed-price for construction work prior to the exercise of the GMP option, or at the request of the Contracting Officer, the Contractor shall submit the following:

(i) A proposed firm-fixed-price proposal for the completion of the construction work, which shall include all markups, including profit.

(ii) A detailed statement of any costs incurred in the performance of the contract work to date.

(2) *Establishment of Firm-Fixed-Price.*

(i) *Prior to Exercise of GMP Option.* The parties may negotiate and establish a firm-fixed-price for construction work prior to the exercise of the GMP option based on the data provided under paragraph (k)(1) of this clause; provided that the firm-fixed-price shall not exceed the GMP. The Contracting Officer shall have the right, but not the obligation, to bilaterally exercise the GMP option at the firm-fixed-price within 120 calendar days of the establishment of such price.

(ii) *After Exercise of the GMP Option.* At any time prior to final settlement, the Contracting Officer may request that the Contractor provide a firm-fixed-price proposal for the completion of construction work in accordance with paragraph (k)(1) of this clause. Within 60 calendar days of such request, the Contractor shall provide such data. Within 60 calendar days of receipt of the Contractor's proposal, the Contracting Officer shall have the right, but not the obligation, to convert the contract to a firm-fixed-price contract through a bilateral modification at the proposed fixed-price or as otherwise negotiated by the parties; provided that the firm-fixed-price, plus any costs incurred in the performance of the construction work, shall not exceed the GMP.

(iii) If any portion of the contract is converted to a firm-fixed-price, then that portion of the contract is no longer subject to open book accounting, a shared savings incentive, or the need for final settlement. If the contract is not converted to a firm-fixed-price contract, then the final settlement of the Contractor's compensation shall be determined in accordance with paragraph (l) of this clause.

(3) *Payments.* If this contract is converted to a firm-fixed-price contract, the Contractor shall submit a revised schedule of values for the construction work allocating the unpaid balance of the fixed price to the itemized work activities remaining uncompleted, which shall be the basis for remaining progress payments.

(l) *Final Settlement.* The final settlement amount shall consist of the cost of performance and the Contractor's shared savings incentive, if any, provided that in no event shall the final settlement exceed the GMP. The final settlement amount shall be the Contractor's total compensation due under the contract.

(1) *Submission Requirements for Final Settlement Proposal.* The Contractor shall submit a final settlement proposal within 120 days of substantial completion to determine the cost of the construction work, which shall include the following:

(i) A detailed statement of all costs incurred by the Contractor in performing the construction work;

(ii) A firm-fixed-price proposal for the performance of the remaining work, if any, that may be necessary to complete performance of the construction work;

(iii) An executed release of claims, which shall describe any and all exceptions, including a description of any outstanding claims; and

(iv) Any other relevant data that the Contracting Officer may reasonably require.

(2) *Determination of the Cost of the Work.* The cost of the construction work shall be the sum of all costs incurred by the Contractor in performing the construction work, the proposed fixed price for performance of remaining work, if any, less the residual value of any Contractor retained inventory. In order to determine the cost of the construction work, the Contractor shall be subject to an audit of the Contractor's records and/or the Contractor's proposal. Establishment of the cost of the construction work shall be subject to negotiation between the Government and the Contractor. In the event that the parties are unable to reach agreement, the Contracting Officer may unilaterally determine the cost of the construction work, and such determination shall be subject to FAR Clause 52.233-1 Disputes.

(3) *Determination of the Shared Savings Incentive.* If the final cost of performance is equal to or greater than the final GMP, the Contractor is not entitled to any additional compensation. If the final cost of performance is less than the final GMP, the Contractor is entitled to the percentage specified in paragraph (g) of this clause, of the difference between the final GMP and the final cost of performance, as the shared savings incentive.

(m) *Subcontracts.* No subcontract placed under this contract may provide for cost-plus-a-percentage of cost. Any costs incurred by the Contractor as a result of such a subcontract shall not be included in the cost of the construction work or the final settlement.

(n) *Open Book Access.* (1) At any time prior to converting to firm-fixed-price, the Government and its representatives, including designated auditors and accountants, shall have the right, but not the obligation, to attend any and all project meetings and shall have access to any and all records maintained by the Contractor relating to the contract. The Contractor shall include this requirement for open book access by the Government in its subcontracts for the contract.

(2) After converting to firm-fixed-price, the Government maintains the right to examine records under GSAR Clause 552.215-70.

(o) *Termination.* If this Contract is terminated, the Contractor shall not be entitled to a shared savings incentive.

(p) The contractor agrees to incorporate the substance of this clause in all subcontracts under this contract.

(End of clause)

552.236-80 Accounting Records and Progress Payments.

As prescribed in 536.7107 (b), insert a clause substantially the same as the following clause:

ACCOUNTING RECORDS AND PROGRESS PAYMENTS (JAN 2020)

(a) The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this contract. The Contractor's accounting and control systems shall meet Generally Accepted Accounting Principles (GAAP) and provide for the following:

(1) There is proper segregation of direct costs and indirect costs.

(2) There is proper identification and accumulation of direct costs by contract.

(3) There is a labor time distribution system that charges direct and indirect labor appropriately.

(b) The Contractor shall afford access to and shall permit any authorized representatives of the Government to audit, examine and copy any records, documents, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to this contract. Records subject to audit, examination, and copying shall include those records necessary to evaluate and verify all direct and indirect costs, including overhead and payroll tax and fringe benefit allocations, as they may apply to costs associated with the contract. The Contractor shall preserve these records for a period of three years after the final payment, or for such longer period as may be required by law.

(c) The records identified in paragraphs (b) of this clause shall be subject to inspection and audit by the Government or its authorized representative for, but not limited to, evaluating and verifying:

(1) Contractor compliance with contract requirements;

(2) Compliance with pricing change orders, invoices, applications for payment, or claims submitted by the contractor or any of its subcontractors at any tier, including vendors and suppliers.

(d) If requested by the Government, the Contractor shall promptly deliver to the Government or its designee copies of all records related to the contract, in a form acceptable to the Government. The Contractor shall provide to the Government or its authorized representative such records maintained in an electronic format in a computer readable format on data disks or suitable alternative computer data exchange formats.

(e) The Government shall have access to the Contractor's facilities, shall be allowed to interview all current and former employees to discuss matters pertinent to the contract, and shall be provided adequate work space, in order to conduct audits and examinations.

(f) If any audit or examination of the Contractor's records discloses total findings resulting in overpricing or overcharges by the Contractor to the Government in excess of one-quarter percent of the total contract billings, the Contractor shall immediately reimburse the Government for the overcharges. The Contractor shall also reimburse the Government for the costs of the audit unless otherwise agreed to by the Government and the Contractor.

(g) The Government shall be entitled to audit all modifications, including lump-sum modifications, to determine whether the proposed costs, as represented by the Contractor and any of its subcontractors, are in compliance with the contract. If it is determined that the costs proposed under a modification, including lump-sum modifications, are not in compliance with the contract, the Government reserves the right to adjust the amount previously approved and included in the modification.

(h) If the Contractor fails to comply with any conditions in this clause, the Contracting Officer may retain a maximum of 10 percent of the amount of each payment request submitted until such deficiencies are corrected.

(i) These requirements regarding accounting records shall not mitigate, lessen nor change any other requirements in the contract regarding audits, payment submissions, records, or records retention.

(j) The contractor agrees to incorporate the substance of this clause in all subcontracts under this contract.

(End of clause)

552.237 [Reserved]

552.237-70 [Reserved]

552.237-71 Qualifications of Employees.

As prescribed in 537.110 (a), insert the following clause:

QUALIFICATIONS OF EMPLOYEES (MAY 1989)

(a) The contracting officer or a designated representative may require the Contractor to remove any employee(s) from GSA controlled buildings or other real property should it be determined that the individual(s) is either unsuitable for security reasons or otherwise unfit to work on GSA controlled property.

(b) The Contractor shall fill out and cause each of its employees performing work on the contract work to fill out, for submission to the Government, such forms as may be necessary for security or other reasons. Upon request of the Contracting Officer, the Contractor and its employees shall be fingerprinted.

(c) Each employee of the Contractor shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or, who presents other evidence from the Immigration and Naturalization Service that employment will not affect his immigration status.

(End of clause)

552.237-72 Prohibition Regarding "Quasi-Military Armed Forces."

As prescribed in 537.110 (b), insert the following clause:

PROHIBITION REGARDING "QUASI-MILITARY ARMED FORCES" (SEP 1999)

The Contractor must not, during the term of this contract, offer for hire "Quasi-Military Armed Forces" within the meaning of the court decision in United States ex. rel. Weinberger v. Equifax, 557 F.2d 456 (5*th* Cir., 1977).

(End of clause)

552.237-73 Restriction on Disclosure of Information.

As prescribed in 537.270 , insert the following clause:

RESTRICTION ON DISCLOSURE OF INFORMATION (JUNE 2009)

(a) The Contractor shall, in the performance of this contract, keep all information contained in source documents or other media furnished by the Government in the strictest confidence. The Contractor shall not publish or otherwise divulge such information in whole or in part, in any manner or form, nor authorize or permit others to do so. The Contractor shall take such reasonable measures as are necessary to restrict access to such information, while in the Contractor's possession, to those employees needing such information to perform the work provided herein, i.e.,on a "need to know" basis. The Contractor shall immediately notify, in writing, the Contracting Officer in the event that the Contractor determines or has reason to suspect a breach of this requirement.

(b) The Contractor shall not disclose any information concerning the work under this contract to any persons or entity unless the Contractor obtains prior written approval from the Contracting Officer.

(c) The Contractor shall insert the substance of this clause in any consultant agreement or subcontract under this contract.

(d) Any unauthorized disclosure of information may result in termination of this contract for cause.

(End of clause)

552.238 [Reserved]

552.238-70 Cover Page for Worldwide Federal Supply Schedules.

As prescribed in 538.273 (a)(1), insert the following provision:

COVER PAGE FOR WORLDWIDE FEDERAL SUPPLY SCHEDULES (MAY 2019)

For All Geographic Areas

Solicitation No. *[The contracting officer should insert the solicitation number here]*_____*
Federal Supply Schedule Contract for All Geographic Areas
[For supplies, the Contracting Officer should complete the information required by paragraph (a) and delete paragraph (b) in its entirety. For services, the Contracting Officer should complete the information required by paragraph (b) and delete (a) in its entirety. For solicitations containing both supplies and services, the Contracting Officer should complete paragraphs (a) and (b).]
(a) Federal Supply Classification (FSC) GROUP: *_____* PART: *_____* SECTION: *_____* SUPPLY: *_____* FSC CLASS(ES)/PRODUCT CODE(S)/NAICS: *_____*
(b) STANDARD INDUSTRY GROUP: *_____* SERVICE: *_____* SERVICE CODE(S)/NAICS: *_____*

(End of provision)

Alternate I (DEC 2022): As prescribed at 538.273(a)(1), add the following paragraph (c) to the basic provision:
(c) PERIOD: *_____* THROUGH *_____*

552.238-71 Notice of Total Small Business Set-Aside.
As prescribed in 538.273 (a)(2), insert the following provision:

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (MAY 2019)

FAR clause 52.219-6, Notice of Total Small Business Set-Aside applies to the following: [The contracting officer should insert the special item numbers (SINs) set aside for small businesses] *_____*.

(End of provision)

552.238-72 Information Collection Requirements.
As prescribed in 538.273 (a)(3), insert the following provision:

INFORMATION COLLECTION REQUIREMENTS (MAY 2019)

The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090-0163.

(End of provision)

552.238-73 Identification of Electronic Office Equipment Providing Accessibility for Individuals with Disabilities.
As prescribed in 538.273 (b)(1), insert the following clause:

IDENTIFICATION OF ELECTRONIC OFFICE EQUIPMENT PROVIDING ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES (MAR 2022)

(a) *Definitions*.
Electronic office equipment accessibility means the application/configuration of electronic office equipment (includes hardware, software and firmware) in a manner that accommodates the functional limitations of individuals with disabilities (as defined below) so as to promote productivity and provide access to work related and/or public information resources.
Individuals with disabilities means qualified individuals with impairments as defined in 29 U.S.C. 705(20) who can benefit from electronic office equipment accessibility.
Special peripheral means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to individuals with disabilities.

(b) The offeror is encouraged to identify in its offer and include in any commercial catalogs and pricelists accepted by the Contracting Officer, office equipment, including any special peripheral, that will facilitate electronic office equipment accessibility for individuals with disabilities. Identification should include the type of disability accommodated and how the users with that disability would be helped.

(End of clause)

552.238-74 Introduction of New Supplies and Services Special Item Number (SIN).

As prescribed in 538.273 (b)(2), insert the following provision:

INTRODUCTION OF NEW SUPPLIES/SERVICES (INSS) (MAY 2023)

(a) *Definition*.

"Introduction of New Supplies and Services Special Item Number (SIN)" means a new or improved supply or service - within the scope of the Federal Supply Schedule (FSS), but not currently available under any Federal Supply Schedule contract- that provides a new service, function, task, or attribute that may provide a more economical or efficient means for ordering activities to accomplish their missions. It may significantly improve an existing supply or service. It may be a supply or service existing in the commercial market, but not yet introduced to the Federal Government.

(b) Offerors are encouraged to introduce new or improved supplies or services via the "Introduction of New Supplies and Services SIN" at any time by clearly identifying this SIN item in the offer.

(c) The Contracting Officer has the sole discretion to determine whether a supply or service will be accepted as an "Introduction of New Supplies and Services SIN" item. The Contracting Officer will evaluate and process the offer and may perform a technical review. This SIN provides temporary placement until the Contracting Officer formally categorizes the new supply or service.

(d) If the Contractor has an existing schedule contract, GSA may, at the sole discretion of the Contracting Officer, modify the existing contract to include the "Introduction of New Supplies and Services SIN" item in accordance with 552.238-82, Modifications (Federal Supply Schedules).

(End of provision)

552.238-75 Evaluation—Commercial Products and Commercial Services (Federal Supply Schedule).

As prescribed in 538.273 (c)(1), insert the following provision:

EVALUATION—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (FEDERAL SUPPLY SCHEDULE) (JAN 2022)

(a) The Government may make multiple awards for the supplies or services offered in response to this solicitation that meet the definition of a "commercial item" in FAR 52.202 1. Awards may be made to those responsible offerors that offer reasonable pricing, conforming to the solicitation, and will be most advantageous to the Government, taking into consideration the multiplicity and complexity of products or services of various manufacturers and the differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, and other pertinent factors. By providing a selection of comparable supplies or services, ordering activities are afforded the opportunity to fulfill their requirements with the products or services that constitute the best value and that meet their needs at the lowest overall cost.

(b) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

552.238-76 Use of Non-Government Employees to Review Offers.

As prescribed in 538.273 (c)(2), insert the following provision:

USE OF NON-GOVERNMENT EMPLOYEES TO REVIEW OFFERS (MAY 2019)

(a) The Government may employ individual technical consultants/advisors/contractors from the below listed organizations to review limited portions of the technical, management and price proposals to assist the government in both pre-award and post-award functions. [The contracting officer should insert a list of organizations used to review solicitation responses and execute a non-disclosure and organizational conflict of interest statement for all individuals conducting reviews.]

_____

(b) These representatives will be used to advise on specific technical, management, and price matters and shall not, under any circumstances, be used as voting evaluators. However, the Government may consider the advice provided in its evaluation process. In addition, Contractor personnel may be used in specific contract administration tasks (*e.g.*, administrative filing, review of deliverables, etc.).

(c) If individual technical consultants/advisors/contractors are utilized as described in (b) above, they will be required to execute a non-disclosure and organizational conflict of interest statements.

(End of provision)

552.238-77 Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists.

As prescribed in 538.273 (d)(1), insert the following clause:

SUBMISSION AND DISTRIBUTION OF AUTHORIZED FEDERAL SUPPLY SCHEDULE (FSS) PRICE LISTS (MAR 2020)

(a) The Contractor shall submit its Authorized Federal Supply Schedule Price List on a common-use electronic medium as prescribed by GSA. Some structured data entry in a prescribed format may be required.

(b) Eligible ordering activities will utilize GSA's online shopping and ordering system to review a Contractors' price lists.

(End of clause)

552.238-78 Identification of Products that Have Environmental Attributes.

As prescribed in 538.273 (d)(2), insert the following clause:

IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (JAN 2022)

(a) Several laws, Executive orders, and Agency directives require Federal buyers to purchase products that are less harmful to the environment, when they are life cycle cost-effective (see FAR Subpart 23.7). The U.S. General Services Administration (GSA) requires contractors to highlight environmental products under Federal Supply Service schedule contracts in various communications media (*e.g.*, publications and electronic formats).

(b) Definitions. As used in this clause—

"Energy-efficient product" means a product that–.

(1) Meets Department of Energy and Environmental Protection Agency criteria for use of the ENERGY STAR® trademark label; or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

"GSA Advantage!" is an on-line shopping mall and ordering system that provides customers with access to products and services under GSA contracts.

"Other environmental attributes" refers to product characteristics that provide environmental benefits, excluding recovered materials and energy and water efficiency. Several examples of these characteristics are biodegradable, recyclable, reduced pollutants, ozone safe, and low volatile organic compounds (VOCs).

"Post-consumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-consumer material is part of the broader category of "recovered material." The Environmental Protection Agency (EPA) has developed a list of EPA-designated products in their Comprehensive Procurement Guidelines (CPGs) to provide Federal agencies with purchasing recommendations on specific products in a Recovered Materials Advisory Notice (RMAN). The RMAN contains recommended recovered and post-consumer material content levels for the specific products designated by EPA (40 CFR part 247 and http://www.epa.gov/cpg/).

"Recovered materials" means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (Executive Order 13101 and 42 U.S.C. 6903(19) and http://www.epa.gov/cpg/). For paper and paper products, see the definition at FAR 11.301 (42 U.S.C. 6962(h)).

"Remanufactured" means factory rebuilt to original specifications.

"Renewable energy" means energy produced by solar, wind, geothermal, and biomass power.

"Renewable energy technology" means–

(1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or

(2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.

(c) *Identification Requirements*. (1) The offeror must identify products that—

(i) Are compliant with the recovered and post-consumer material content levels recommended in the Recovered Materials Advisory Notices (RMANs) for EPA-designated products in the CPG program (http://www.epa.gov/cpg/);

(ii) Contain recovered materials that either do not meet the recommended levels in the RMANs or are not EPA-designated products in the CPG program (see FAR 23.401 and http://www.epa.gov/cpg/);

(iii) Are energy-efficient, as defined by either ENERGY STAR® and/or FEMP's designated top 25th percentile levels (see ENERGY STAR® at http://www.energystar.gov/ and FEMP at http://www.eere.energy.gov/femp/procurement/);

(iv) Are water-efficient

(v) Use renewable energy technology;

(vi) Are remanufactured; and

(vii) Have other environmental attributes.

(2) These identifications must be made in each of the offeror's following mediums:

(i) The offer itself.

(ii) Printed commercial catalogs, brochures, and pricelists.

(iii) Online product website.

(iv) Electronic data submission for GSA Advantage! submitted via GSA's Schedules Input Program (SIP) software or the Electronic Data Inter-change (EDI). Offerors can use the SIP or EDI methods to indicate environmental and other attributes for each product that are translated into respective icons in GSA Advantage!.

(d) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR part 260, Guides for the Use of Environmental Marketing Claims). The Government will accept an offeror's claim of an product's environmental attribute on the basis of—

(1) Participation in a Federal agency sponsored program (*e.g.*, the EPA and DOE ENERGY STAR® product labeling program);

(2) Verification by an independent organization that specializes in certifying such claims; or

(3) Possession of competent and reliable evidence. For any test, analysis, research, study, or other evidence to be "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

(End of clause)

552.238-79 Cancellation.

As prescribed in 538.273 (d)(3), insert the following clause:

CANCELLATION (MAY 2019)

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 calendar days after the other party receives the notice of cancellation. If the Contractor elects to cancel this contract, the Government will not reimburse the minimum guarantee.

(End of clause)

552.238-80 Industrial Funding Fee and Sales Reporting.

As prescribed in 538.273 (d)(4) insert the following clause:

INDUSTRIAL FUNDING FEE AND SALES REPORTING (JUL 2020)

(a) Reporting of Federal Supply Schedule Sales. The Contractor shall report all contract sales under this contract as follows:

(1) The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this contract by calendar quarter (January 1-March 31, April 1-June 30, July 1-September 30, and October 1-December 31). The dollar value of a sale is the price paid by the Schedule user for products and services on a Schedule task or delivery order. The reported contract sales value shall include the Industrial Funding Fee (IFF). The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's established commercial accounting practice. The acceptable points at which sales may be reported include–

(i) Receipt of order;

(ii) Shipment or delivery, as applicable;

(iii) Issuance of an invoice; or

(iv) Payment.

(2) Contract sales shall be reported to Federal Acquisition Services (FAS) within 30 calendar days following the completion of each reporting quarter. The Contractor shall continue to furnish quarterly reports, including "zero" sales, through physical completion of the last outstanding task order or delivery order of the contract.

(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 Acquisition Service (FAS). Prior to using this automated system, the Contractor shall complete contract registration with the FAS 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.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/treasRptRateExch_home.htm.

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

(1) The Contractor shall remit the IFF to FAS 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 FAS. GSA's FAS has the unilateral right to change the percentage at any time, but not more than once per year. FAS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FAS for the costs of operating the Federal Supply Schedules Program. FAS recoups its operating costs from ordering activities as set forth in 40 U.S.C.

321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FAS programs, in accordance with 40 U.S.C. 321. 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. FAS will post notice of the current IFF at https://srp.fas.gsa.gov/ or successor website as appropriate.

(c) Within 60 days of award, an FAS representative will provide the Contractor with specific written procedural instructions on remitting the IFF. FAS 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 Improvement 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)

Alternate I (May 2023). As prescribed in 538.273 (d)(4), substitute the following paragraphs (a), (b), (c), and (d) for paragraphs (a), (b), (c), and (d) of the basic clause:

(a) Definition. "Transactional data" encompasses the historical details of the products or services delivered by the Contractor during the performance of task or delivery orders issued against this contract.

(b) Reporting of Transactional Data. The Contractor must report all transactional data under this contract as follows:

(1) The Contractor must electronically report transactional data by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. GSA will post registration instructions and reporting procedures on the Vendor Support Center website, https://vsc.gsa.gov. The reporting system website address, as well as registration instructions and reporting procedures, will be provided at the time of award or inclusion of this clause in the contract.

(2) The Contractor must provide, at no additional cost to the Government, the following transactional data elements, as applicable:

(i) Contract or Blanket Purchase Agreement (BPA) Number.
(ii) Delivery/Task Order Number/Procurement Instrument Identifier (PIID).
(iii) Non Federal Entity.
(iv) Description of Deliverable.
(v) Manufacturer Name.
(vi) Manufacturer Part Number.
(vii) Unit Measure (each, hour, case, lot).
(viii) Quantity of Item Sold.
(ix) Universal Product Code.
(x) Price Paid per Unit.
(xi) Total Price.

Note to paragraph (b)(2): The Contracting Officer may add data elements to the standard elements listed in paragraph (b)(2) of this section with the approvals listed in GSAM (b)(3).

(3) The contractor must report transactional data within 30 calendar days from the last calendar day of the month. If there was no contract activity during the month, the Contractor must submit a confirmation of no reportable transactional data within 30 calendar days of the last calendar day of the month.

(4) The Contractor must report the price paid per unit, total price, or any other data elements with an associated monetary value listed in (b)(2) of this section, in U.S. dollars.

(5) The reported price paid per unit and total price must include the Industrial Funding Fee (IFF).

(6) The Contractor must maintain a consistent accounting method of transactional data reporting, based on the Contractor's established commercial accounting practice.

(7) Reporting Points.

(i) The acceptable points at which transactional data may be reported include-

(A) Issuance of an invoice; or

(B) Receipt of payment.

(ii) The Contractor must determine whether to report transactional data on the basis of invoices issued or payments received.

(8) The Contractor must continue to furnish reports, including confirmation of no transactional data, through physical completion of the last outstanding task or delivery order of the contract.

(9) Unless otherwise expressly stated by the ordering activity, orders that contain classified information or other or information that would compromise national security are exempt from this reporting requirement.

(10) This clause does not exempt the Contractor from fulfilling existing reporting requirements contained elsewhere in the contract.

(11) GSA reserves the unilateral right to change reporting instructions following 60 calendar days' advance notification to the Contractor.

(c) *Industrial Funding Fee (IFF)*.

(1) This contract includes an IFF charged on orders placed against this contract. The IFF is paid by the authorized ordering activity but remitted to GSA by the Contractor. The IFF reimburses GSA for the costs of operating the Federal Supply Schedule program, as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefiting other authorized GSA programs, in accordance with 40 U.S.C. 321.

(2) GSA has the unilateral right to change the fee amount at any time, but not more than once per year; GSA will provide reasonable notice prior to the effective date of any change. GSA will post notice of the current IFF on the Vendor Support Center website at https://vsc.gsa.gov.

(3) Offerors must include the IFF in their prices. The fee is included in the awarded price(s) and reflected in the total amount charged to ordering activities. The fee will not be included in the price of non-contract items purchased pursuant to a separate contracting authority, such as a Governmentwide Acquisition Contract (GWAC); a separately awarded Federal Acquisition Regulation (FAR) Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract.

(4) The Contractor must remit the IFF to GSA in U.S. dollars within 30 calendar days after the last calendar day of the reporting quarter; final payment must be remitted within 30 calendar days after physical completion of the last outstanding task order or delivery order issued against the contract.

(5) GSA reserves the unilateral right to change remittance instructions following 60 calendar days' advance notification to the Contractor.

(d) The Contractor's 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 Improvement Act of 1996, including withholding or offsetting payments and interest on the debt (see FAR clause 52.232-17, Interest). If the Contractor fails to submit the required transactional data reports, falsifies them, or fails to timely pay the IFF, these reasons constitute sufficient cause for the Government to terminate the contract for cause.

552.238-81 Price Reductions.

As prescribed in 538.273 (d)(5), insert the following clause:

PRICE REDUCTIONS (MAY 2019)

(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 eligible ordering activity 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 Eligible Ordering Activities identified in GSAR Clause 552.238-113 when the order is placed under this contract (and the Eligible Ordering Activities identified in GSAR Clause 552.238-113 is the agreed upon customer or category of customer that is the basis of award); or

(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 (Apr 2014). As prescribed in 538.273 (d)(5), substitute the following paragraphs (a) and (b) for paragraphs (a), (b), (c), (d), (e), (f) and (g) of the basic clause:

(a) The Government may request from the Contractor, and the Contractor may provide to the Government, a temporary or permanent price reduction at any time during the contract period.

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

552.238-82 Modifications (Federal Supply Schedules).

As prescribed in 538.273 (d)(6), insert the following clause:

MODIFICATIONS (FEDERAL SUPPLY SCHEDULES) (JAN 2022)

(a) *General*. The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of modifications*— (1) Additional items/additional SINs. When requesting additions, the following information must be submitted:

(i) *Information requested in paragraphs* (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii) Discount information for the new item(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by FAR 52.215-6, Place of Performance.

(vi) Hazardous Material information (if applicable) must be submitted as required by FAR 52.223-3 (Alternate I), Hazardous Material Identification and Material Safety Data.

(vii) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Products and Commercial Services, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

(2) *Deletions*. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) *Price reduction*. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-81. If the Price reduction falls under item (i), the Contractor shall transmit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall transmit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective dates*. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-81.

(d) *Electronic file updates*. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at 552.238-81.

(End of clause)

Alternate I (Mar 2020). As prescribed in 538.273 (d)(6)(i), add the following paragraph (e) to the basic clause:

(e) Electronic submission of modification requests is mandatory via eMod (http://eOffer.gsa.gov), unless otherwise stated in the electronic submission standards and requirements at the Vendor Support Center website (http://vsc.gsa.gov). If the electronic submissions standards and requirements information is updated at the Vendor Support Center website, Contractors will be notified prior to the effective date of the change.

Alternate II (May 2019). As prescribed in 538.273 (d)(6)(ii), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) *Types of Modifications*.

(1) Additional items/additional SINs. When requesting additions, the Contractor must submit the following information:

(i) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the instructions in the solicitation.

(ii) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iii) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by FAR 52.215-6, Place of Performance.

(iv) Hazardous Material information (if applicable) must be submitted as required by FAR 52.223-3 (Alternate I), Hazardous Material Identification and Material Safety Data.

(v) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Products or Services, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

(2) Deletions. The Contractor must provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the Contracting Officer determines that the higher price is unreasonable compared to the price of the deleted item.

552.238-83 Examination of Records by GSA.

As prescribed in 538.273 (d)(7) insert the following clause:

EXAMINATION OF RECORDS BY GSA (MAY 2019)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall have access to and the right to examine any books, documents, papers and records of the contractor involving transactions related to this contract for overbillings, billing errors, compliance with contract clauses 552.238-81, Price Reductions and 552.238-80, Industrial Funding Fee and Sales Reporting. This authority shall expire 3 years after final payment. The basic contract and each option shall be treated as separate contracts for purposes of applying this clause.

(End of clause)

552.238-84 Discounts for Prompt Payment.

As prescribed in 538.273 (d)(8) insert the following clause:

DISCOUNTS FOR PROMPT PAYMENT (MAY 2019)

(a) Discounts for early payment (hereinafter referred to as "discounts" or "the discount") will be considered in evaluating the relationship of the Offeror's concessions to the Government vis-a-vis the Offeror's concessions to its commercial and Federal non-schedule customers, but only to the extent indicated in this clause.

(b) Discounts will not be considered to determine the low Offeror in the situation described in the "Offers on Identical Products" provision of this solicitation.

(c) Uneconomical discounts will not be considered as meeting the criteria for award established by the Government. In this connection, a discount will be considered uneconomical if the annualized rate of return for earning the discount is lower than the "value of funds" rate established by the Department of the Treasury and published quarterly in the Federal Register. The "value of funds" rate applied will be the rate in effect on the date specified for the receipt of offers.

(d) Discounts for early payment may be offered either in the original offer or on individual invoices submitted under the resulting contract. Discounts offered will be taken by the ordering activity if payment is made within the discount period specified.

(e) Discounts that are included in offers become a part of the resulting contracts and are binding on the Contractor for all orders placed under the contract. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.

(f) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(End of clause)

552.238-85 Contractor's Billing Responsibilities.

As prescribed in 538.273 (d)(9) insert the following clause:

CONTRACTOR'S BILLING RESPONSIBILITIES (MAY 2019)

(a) The Contractor is required to perform all billings made pursuant to this contract. However, if the Contractor has dealers that participate on the contract and the billing/payment process by the Contractor for sales made by the dealer is a significant administrative burden, the following alternative procedures may be used. Where dealers are allowed by the Contractor to bill ordering activities and accept payment in the Contractor's name, the Contractor agrees to obtain from all dealers participating in the performance of the contract a written agreement, which will require dealers to

(1) Comply with the same terms and conditions as the Contractor for sales made under the contract;

(2) Maintain a system of reporting sales under the contract to the manufacturer, which includes

(i) The date of sale;

(ii) The ordering activity to which the sale was made;
(iii) The service or supply/model sold;
(iv) The quantity of each service or supply/model sold;
(v) The price at which it was sold, including discounts; and
(vi) All other significant sales data.
(3) Be subject to audit by the Government, with respect to sales made under the contract; and
(4) Place orders and accept payments in the name of the Contractor in care of the dealer.
(b) An agreement between a Contractor and its dealers pursuant to this procedure will not establish privity of contract between dealers and the Government.

(End of clause)

552.238-86 Delivery Schedule.

As prescribed in 538.273 (d)(10) insert the following clause:

DELIVERY SCHEDULE (MAY 2019)

(a) *Time of delivery.* The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO) in the case of F.O.B. Destination prices; or to place of shipment in transit in the case of F.O.B. Origin prices, as set forth below. Offerors shall insert in the "Time of Delivery (days ARO)" column in the schedule of Items a definite number of calendar days within which delivery will be made. In no case shall the offered delivery time exceed the Contractor's normal business practice. The Government requires the Contractor's normal delivery time, as long as it is less than the "stated" delivery time(s) shown below. If the Offeror does not insert a delivery time in the schedule of items, the Offeror will be deemed to offer delivery in accordance with the Government's stated delivery time, as stated below [The contracting officer shall insert the solicited items or Special Item Numbers (SIN) as well as a reasonable delivery time that corresponds with each item or SIN, if known]:

Items or group of items (special item no. or nomenclature)	Government's stated delivery time (days ARO)	Contractor's delivery time

(b) *Expedited delivery times.* For those items that can be delivered quicker than the delivery times in paragraph (a) of this clause, the Offeror is requested to insert below, a time (hours/days ARO) that delivery can be made when expedited delivery is requested.

Items or group of items (special item no. or nomenclature)	Expedited delivery time (hours/days ARO)

(c) *Overnight and 2-Day delivery times*. Ordering activities may require overnight or 2-day delivery. The Offeror is requested to annotate its price list or by separate attachment identify the items that can be delivered overnight or within

2 days. Contractors offering such delivery services will be required to state in the cover sheet to its FSS price list details concerning this service.

(End of clause)

552.238-87 Delivery Prices.

As prescribed in 538.273 (d)(11) insert the following clause:

DELIVERY PRICES (MAY 2019)

(a) Prices offered must cover delivery as provided below to destinations located within the 48 contiguous States and the District of Columbia.

(1) Delivery to the door of the specified Government activity by freight or express common carriers on articles for which store-door delivery is provided, free or subject to a charge, pursuant to regularly published tariffs duly filed with the Federal and/or State regulatory bodies governing such carrier; or, at the option of the Contractor, by parcel post on mailable articles, or by the Contractor's vehicle. Where store-door delivery is subject to a charge, the Contractor shall place the notation "Delivery Service Requested" on bills of lading covering such shipments, and pay such charge and add the actual cost thereof as a separate item to his invoice.

(2) Delivery to siding at destinations when specified by the ordering office, if delivery is not covered under paragraph (a)(1) of this section.

(3) Delivery to the freight station nearest destination when delivery is not covered under paragraph (a)(1) or (2) of this section.

(b) The Offeror shall indicate in the offer whether or not prices submitted cover delivery f.o.b. destination in Alaska, Hawaii, and the Commonwealth of Puerto Rico.

(c) When deliveries are made to destinations outside the contiguous 48 States; i.e., Alaska, Hawaii, and the Commonwealth of Puerto Rico, and are not covered by paragraph (b), above, the following conditions will apply:

(1) Delivery will be f.o.b. inland carrier, point of exportation (FAR 52.247-38), with the transportation charges to be paid by the Government from point of exportation to destination in Alaska, Hawaii, or the Commonwealth of Puerto Rico, as designated by the ordering office. The Contractor shall add the actual cost of transportation to destination from the point of exportation in the 48 contiguous States nearest to the designated destination. Such costs will, in all cases, be based upon the lowest regularly established rates on file with the Interstate Commerce Commission, the U.S. Maritime Commission (if shipped by water), or any State regulatory body, or those published by the U.S. Postal Service; and must be supported by paid freight or express receipt or by a statement of parcel post charges including weight of shipment.

(2) The right is reserved to ordering agencies to furnish Government bills of lading.

(End of clause)

552.238-88 GSA Advantage!®.

As prescribed in 538.273 (d)(12) insert the following clause:

GSA ADVANTAGE!® (JUL 2024)

(a) The Contractor shall participate in the GSA Advantage!® online shopping service. Information and instructions regarding Contractor participation are contained in clause 552.238-103, Electronic Commerce.

(b) The Contractor shall refer to contract clauses 552.238-77, Submission and Distribution of Authorized FSS Price Lists (which provides for submission of price lists on a common-use electronic medium), and 552.238-82, Modifications (which addresses electronic file updates).

(c) Single use plastic (SUP) free packaging icon. Contractors are encouraged to utilize the GSA Advantage!® single-use plastic (SUP) free packaging icon when applicable (see 552.238-118). The offeror may include in their price list if the

contractor is providing SUP-free packaging (either for shipping or as part of the product packaging) at either a price premium or discount (see 552.238-119).

(End of clause)

552.238-89 Deliveries to the U.S. Postal Service.

As prescribed in 538.273 (d)(13) insert the following clause:

DELIVERIES TO THE U.S. POSTAL SERVICE (MAY 2019)

(a) *Applicability.* This clause applies to orders placed for the U.S. Postal Service (USPS) and accepted by the Contractor for the delivery of supplies to a USPS facility (consignee).

(b) *Mode/method of transportation.* Unless the Contracting Officer grants a waiver of this requirement, any shipment that meets the USPS requirements for mailability (*i.e.*, 70 pounds or less, combined length and girth not more than 108 inches, etc.) delivery shall be accomplished via the use of the USPS. Other commercial services shall not be used, but this does not preclude the Contractor from making delivery by the use of the Contractor's own vehicles.

(c) *Time of delivery.* Notwithstanding the required time for delivery to destination as may be specified elsewhere in this contract, if shipments under this clause are mailed not later than five (5) calendar days before the required delivery date, delivery shall be deemed to have been made timely.

(End of clause)

552.238-90 Characteristics of Electric Current.

As prescribed in 538.273 (d)(14) insert the following clause:

CHARACTERISTICS OF ELECTRIC CURRENT (MAY 2019)

Contractors supplying equipment which uses electrical current are required to supply equipment suitable for the electrical system at the location at which the equipment is to be used as specified on the order.

(End of clause)

552.238-91 Marking and Documentation Requirements for Shipping.

As prescribed in 538.273 (d)(15) insert the following clause:

MARKING AND DOCUMENTATION REQUIREMENTS FOR SHIPPING (MAY 2019)

(a) Responsibility. It shall be the responsibility of the ordering activity to determine the full marking and documentation requirements necessary under the various methods of shipment authorized by the contract.

(b) Documentation. In the event the ordering activity fails to provide the essential information and documentation, the Contractor shall, within three days after receipt of order, contact the ordering activity and advise them accordingly. The Contractor shall not proceed with any shipment requiring transshipment via U.S. Government facilities without the prerequisites stated in paragraph (c) of this section.

(c) Direct shipments. The Contractor shall mark all items ordered against this contract with indelible ink, paint or fluid, as follows:

(1) Traffic Management or Transportation Officer at FINAL destination.
(2) Ordering Supply Account Number.
(3) Account number.
(4) Delivery Order or Purchase Order Number.
(5) National Stock Number, if applicable; or Contractor's item number.
(6) Box _____ of _____ Boxes.

(7) Nomenclature (brief description of items).

(End of clause)

552.238-92 Vendor Managed Inventory (VMI) Program.

As prescribed in 538.273 (d)(16) insert the following clause:

VENDOR MANAGED INVENTORY (VMI) PROGRAM (MAY 2019)

(a) The term "Vendor Managed Inventory" describes a system in which the Contractor monitors and maintains specified inventory levels for selected items at designated stocking points. VMI enables the Contractor to plan production and shipping more efficiently. Stocking points benefit from reduced inventory but steady stock levels.

(b) Contractors that commercially provide a VMI-type system may enter into similar partnerships with ordering agencies under a Blanket Purchase Agreement.

(End of clause)

552.238-93 Order Acknowledgment.

As prescribed in 538.273 (d)(17) insert the following clause:

ORDER ACKNOWLEDGMENT (MAY 2019)

Contractors shall acknowledge only those orders which state "Order Acknowledgment Required." These orders shall be acknowledged within 10 calendar days after receipt. Such acknowledgment shall be sent to the ordering activity placing the order and contain information pertinent to the order, including the anticipated delivery date.

(End of clause)

552.238-94 Accelerated Delivery Requirements.

As prescribed in 538.273 (d)(18) insert the following clause:

ACCELERATED DELIVERY REQUIREMENTS (MAY 2019)

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, the ordering activity is encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within three (3) business days after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

(End of clause)

552.238-95 Separate Charge for Performance Oriented Packaging (POP).

As prescribed in 538.273 (d)(19) insert the following clause:

SEPARATE CHARGE FOR PERFORMANCE ORIENTED PACKAGING (POP) (MAY 2019)

(a) Offerors are requested to list the hazardous material item to which the separate charge applies in the spaces provided in this paragraph or on a separate attachment. The final price shall be quoted separately at the order level and, if considered reasonable, will be accepted as part of the order.

ITEMS

SINS or Descriptive Name of Articles (as appropriate)	Charge for Performance Oriented

(b) Ordering activities will not be obligated to utilize the Contractor's services for Performance Oriented Packaging, and they may obtain such services elsewhere if desired. However, the Contractor shall provide items in Performance Oriented Packaging when such packing is specified on the delivery order. The Contractor's contract price and the charge for Performance Oriented Packaging will be shown as separate entries on the delivery order.

(End of clause)

552.238-96 Separate Charge for Delivery within Consignee's Premises.

As prescribed in 538.273 (d)(20) insert the following clause:

SEPARATE CHARGE FOR DELIVERY WITHIN CONSIGNEE'S PREMISES (MAY 2019)

(a) Offerors are requested to insert, in the spaces provided below or by attachment hereto, a separate charge for "Delivery Within Consignee's Premises" applicable to each shipping container to be shipped. (Articles which are comparable in size and weight, and for which the same charge is applicable, should be grouped under an appropriate item description.) These additional charges will be accepted as part of the award, if considered reasonable, and shall be included in the Contractor's published catalog and/or price list.

(b) Ordering activities are not obligated to issue orders on the basis of "Delivery Within Consignee's Premises," and Contractors may refuse delivery on that basis provided such refusal is communicated in writing to the ordering activity issuing such orders within 5 days of the receipt of such order by the Contractor and provided further, that delivery is made in accordance with the other delivery requirements of the contract. Failure of the Contractor to submit this notification within the time specified shall constitute acceptance to furnish "Delivery Within Consignee's Premises" at the additional charge awarded. When an ordering activity issues an order on the basis of "Delivery Within Consignee's Premises" at the accepted additional charge awarded and the Contractor accepts such orders on that basis, the Contractor will be obligated to provide delivery "F.o.b. Destination, Within Consignee's Premises" in accordance with FAR 52.247-35, which is then incorporated by reference, with the exception that an additional charge as provided herein is allowed for such services. Unless otherwise stipulated by the Offeror, the additional charges awarded hereunder may be applied to any delivery within the 48 contiguous States and the District of Columbia.

(c) When exercising their option to issue orders on the basis of delivery service as provided herein, ordering activities will specify "Delivery Within Consignee's Premises" on the order, and will indicate the exact location to which delivery is to be made. The Contractor's delivery price and the additional charge(s) for "Delivery Within Consignee's Premises" will be shown as separate entries on the order..

ITEMS	
(NSNs or Special Item Numbers or Descriptive Name of Articles)	Additional Charge (Per shipping container) FOR "DELIVERY WITHIN CONSIGNEE'S PREMISES"

(End of clause)

552.238-97 Parts and Service.

As prescribed in 538.273 (d)(21) insert the following clause:

PARTS AND SERVICE (MAY 2019)

(a) For equipment under items listed in the schedule of items or services on which offers are submitted, the Contractor represents by submission of this offer that parts and services (including the performing of warranty or guarantee service) are now available from dealers or distributors serving the areas of ultimate overseas destination or that such facilities will be established and will be maintained throughout the contract period. If a new servicing facility is to be established, the facility shall be established no later than the beginning of the contract period.

(b) Each Contractor shall be fully responsible for the services to be performed by the named servicing facilities, or by such facilities to be established, and fully guarantees performance of such services if the original service proves unsatisfactory.

(c) Contractors are requested to provide the Ordering Activity, the names and addresses of all supply and service points maintained in the geographic area in which the Contractor will perform. Please indicate opposite each point whether or not a complete stock of repair parts for items offered is carried at that point, and whether or not mechanical service is available.

(End of clause)

552.238-98 Clauses for Overseas Coverage.

As prescribed in 538.273 (d)(22) insert the following clause:

CLAUSES FOR OVERSEAS COVERAGE (MAY 2019)

(a) 52.214-34 Submission of Offers in the English Language
(b) 52.214-35 Submission of Offers in U.S. Currency
(c) 552.238-90 Characteristics of Electric Current
(d) 552.238-91 Marking and Documentation Requirements Per Shipment
(e) 552.238-97 Parts and Service
(f) 552.238-99 Delivery Prices Overseas
(g) 552.238-100 Transshipments
(h) 552.238-101 Foreign Taxes and Duties
(i) 52.247-34 FOB Destination
(j) 52.247-38 FOB Inland Carrier, Point of Exportation
(k) 52.247-39 FOB Inland Point, Country of Importation

(End of clause)

552.238-99 Delivery Prices Overseas.

As prescribed in 538.273 (d)(23) insert the following clause:

DELIVERY PRICES OVERSEAS (MAY 2019)

(a) Prices offered must cover delivery to destinations as provided as follows:

(1) Direct delivery to consignee. F.O.B. Inland Point, Country of Importation (FAR 52.247-39). *(Offeror should indicate countries where direct delivery will be provided.)*

(2) Delivery to overseas assembly point for transshipment when specified by the ordering activity, if delivery is not covered under paragraph (1), above.

(3) Delivery to the overseas port of entry when delivery is not covered under paragraph (a)(1) or (2) of this section.

(b) Geographic area(s)/countries/zones which are intended to be covered must be identified in the offer.

(End of clause)

552.238-100 Transshipments.

As prescribed in 538.273 (d)(24) insert the following clause:

TRANSSHIPMENTS (MAY 2019)

(a) The Contractor shall complete two (2) DD Forms 1387, Military Shipment Labels and, if applicable, four copies of DD Form 1387-2, Special Handling/Data Certification-used when shipping chemicals, dangerous cargo, etc.

(1) Two copies of the DD Form 1387 will be attached to each shipping container delivered to the port Transportation Officer for subsequent transshipment by the Government as otherwise provided for under the terms of this contract.

(2) These forms will be attached to one end and one side, not on the top or bottom, of the container.

(3) The Contractor will complete the bottom line of these forms, which pertains to the number of pieces, weight and cube of each piece, using U.S. weight and cubic measures. Weights will be rounded off to the nearest pound. (One kg = 2.2 U.S. pounds; one cubic meter = 35.3156 cubic feet.)

(b) In addition, if the cargo consists of chemicals, or is dangerous, one copy of the DD Form 1387-2 will be attached to the container, and three copies will be furnished to the Transportation Officer with the Bill of Lading.

(c) Dangerous cargo will not be intermingled with non-dangerous cargo in the same container.

(d) Copies of the above forms and preparation instructions will be obtained from the ordering activity issuing the Delivery Order. Reproduced copies of the forms are acceptable.

(e) Failure to include DD Form 1387, and DD Form 1387-2, if applicable, on each shipping container will result in rejection of shipment by the port Transportation Officer.

(End of clause)

552.238-101 Foreign Taxes and Duties.

As prescribed in 538.273 (d)(25) insert the following clause:

FOREIGN TAXES AND DUTIES (MAY 2019)

Prices offered must be net, delivered, f.o.b. to the destinations accepted by the Government.

(a) The Contractor warrants that such prices do not include any tax, duty, customs fees, or other foreign Governmental costs, assessments, or similar charges from which the U.S. Government is exempt.

(b) Standard commercial export packaging, including containerization, if necessary, packaging, preservation, and/or marking are included in the pricing offered and accepted by the Government.

(End of clause)

552.238-102 English Language and U.S. Dollar Requirements.

As prescribed in 538.273 (d)(26) insert the following clause:

ENGLISH LANGUAGE AND U.S. DOLLAR REQUIREMENTS (MAY 2019)

(a) All documents produced by the Contractor to fulfill requirements of this contract including, but not limited to, Federal Supply Schedule catalogs and price lists, must reflect all terms and conditions in the English language.

(b) U.S. dollar equivalency, if applicable, will be based on the rates published in the “Treasury Reporting Rates of Exchange” in effect as of the date of the agency's purchase order or in effect during the time period specified elsewhere in this contract.

(End of clause)

552.238-103 Electronic Commerce.

As prescribed in 538.273 (d)(27) insert the following clause:

ELECTRONIC COMMERCE (MAY 2019)

(a) *General background.* The Federal Acquisition Streamlining Act (FASA) of 1994 requires the Government to evolve its acquisition process from one driven by paper to an expedited process based on electronic commerce/electronic data interchange (EC/EDI). EC/EDI encompasses more than merely automating manual processes and eliminating paper transactions. EC/EDI improves business processes (e.g. procurement, finance, logistics) into a fully electronic environment and fundamentally changes the way organizations operate.

(b) *Trading partners and Value-Added Networks (VAN's).*

(1) Within the electronic commerce architecture, electronic documents (*e.g.*, orders, invoices, etc.) are carried between the Federal Government's procuring office and Contractors (now known as "trading partners"). These transactions are carried by commercial telecommunications companies called Value-Added Networks (VAN's).

(2) EDI can be performed using commercially available hardware, software, and telecommunications. The selection of a VAN is a business decision Contractors must make. There are many different VAN's which provide a variety of electronic services and different pricing strategies. If the VAN only provides communications services, you may also need a software translation package.

(c) *Registration instructions.* To perform EDI with the Government, Contractors shall register as a trading partner. Contractors will provide regular business information, banking information, and EDI capabilities to all agencies in this single registration. A central repository of all trading partners is the Systems for Award Management (SAM) http://www.sam.gov. Contractors shall follow the instructions on the SAM website regarding how to register for EDI.

(d) *Implementation conventions.* All EDI transactions must comply with the Federal Implementation Conventions (ICs). The ICs are available on a registry maintained by the National Institute of Standards and Technology (NIST). It is accessible via the INTERNET at http://www.nist.gov/itl. ICs are available for common business documents such as Purchase Order, Price Sales Catalog, Invoice, Request for Quotes, etc.

(e) *Additional information.* GSA has additional information available for Contractors who are interested in using EC/EDI on its website, http://www.gsa.gov.

(f) *GSA Advantage!®.* (1) GSA Advantage!® uses electronic commerce to receive catalogs, invoices and text messages; and to send purchase orders, application advice, and functional acknowledgments. GSA Advantage!® enables customers to:

(i) Perform database searches across all contracts by manufacturer; manufacturer's model/part number; Contractor; and generic supply categories.

(ii) Generate EDI delivery orders to Contractors, generate EDI delivery orders from the Federal Supply Service to Contractors, or download files to create their own delivery orders.

(iii) Use the credit card.

(2) GSA Advantage!® may be accessed via the GSA Home Page. The Internet address is: http://www.gsa.gov.

(End of clause)

552.238-104 Dissemination of Information by Contractor.

As prescribed in 538.273 (d)(28) insert the following clause:

DISSEMINATION OF INFORMATION BY CONTRACTOR (MAY 2019)

The Government will provide the Contractor with a single copy of the resulting Federal Supply Schedule contract award documents. However, it is the responsibility of the Contractor to furnish all sales outlets authorized to participate in the performance of the contract with the terms, conditions, pricing schedule, and other appropriate information.

(End of clause)

552.238-105 Deliveries Beyond the Contractual Period-Placing of Orders.

As prescribed in 538.273 (d)(29) insert the following clause:

DELIVERIES BEYOND THE CONTRACTUAL PERIOD-PLACING OF ORDERS (MAR 2024)

In accordance with the GSAR clause at 552.238-113 Authorities Supporting Use of Federal Supply Schedule Contracts., Authorities Supporting Use of Federal Supply Schedule Contracts, this contract covers all requirements that may be ordered, as distinguished from delivered during the contract term. This is for the purpose of providing continuity of supply or operations by permitting ordering activities to place orders as requirements arise in the normal course of operations. Accordingly, any order mailed (or received, if forwarded by other 7 means than through the mail) to the Contractor on or before the expiration date of the contract, and providing for delivery within the number of days specified in the contract, shall constitute a valid order.

(End of clause)

552.238-106 Interpretation of Contract Requirements.

As prescribed in 538.273 (d)(30) insert the following clause:

INTERPRETATION OF CONTRACT REQUIREMENTS (MAY 2019)

No interpretation of any provision of this contract, including applicable specifications, shall be binding on the Government unless furnished or agreed to in writing by the Contracting Officer or his designated representative.

(End of clause)

552.238-107 Export Traffic Release (Supplies).

As prescribed in 538.273 (d)(31) insert the following clause:

EXPORT TRAFFIC RELEASE (SUPPLIES) (MAY 2019)

Supplies ordered by GSA for export will not be shipped by the Contractor until shipping instructions are received from GSA. To obtain shipping instructions, the Contractor shall forward completed copies of GSA Form 1611, Application for Shipping Instructions and Notice of Availability, to the GSA office designated on the purchase order at least 15 days prior to the anticipated shipping date. Copies of GSA Form 1611 will be furnished to the Contractor with the purchase order. Failure to comply with this requirement could result in nonacceptance of the material by authorities at the port of exportation. When supplies for export are ordered by other Government agencies the Contractor should obtain shipping instructions from the ordering agency.

(End of clause)

552.238-108 Spare Parts Kit.

As prescribed in 538.273 (d)(32) insert the following clause:

SPARE PARTS KIT (MAY 2019)

(a) The Contractor will be required to offer a spare parts kit conforming, generally, to the following requirements for each item awarded under this solicitation: *[The Ordering Activity contracting officer should insert the specifications for a spare parts kit specific to the solicited items.]*

(b) The Contractor shall furnish prices for spare parts kits as follows:

(1) Price of kit unpackaged.

(2) Price of kit in domestic pack.

(3) Price of kit in wooden case, steel-strapped.

(c) The Contractor will be required to furnish a complete description of spare parts kit offered, a list of parts included, and the price of the kit delivered f.o.b. destination to any point within the conterminous United States within 15 days after receipt

of a request from the Ordering Activity Contracting Officer. If the kit offered is acceptable to the Ordering Activity, awards covering requirements will be made by supplemental agreement to this contract.

(End of clause)

552.238-109 Authentication Supplies and Services.

As prescribed in 538.273 (d)(33) insert the following clause:

AUTHENTICATION SUPPLIES AND SERVICES (MAY 2019)

(a) *General background.* (1) The General Services Administration (GSA) established the "Identity and Access Management Services" (IAMS) Program to clearly define the kinds of digital certificates and PKI services that meet the requirements for service providers and supplies that support FISMA-compliant IAM systems deployed by Federal agencies.

(2) Homeland Security Presidential Directive 12 (HSPD-12), "Policy for a Common Identification Standard for Federal Employees and Contractors" establishes the requirement for a mandatory Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and Contractor employees assigned to Government contracts in order to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy. Further, the Directive requires the Department of Commerce to promulgate a Federal standard for secure and reliable forms of identification within six months of the date of the Directive. As a result, the National Institute of Standards and Technology (NIST) released Federal Information Processing Standard (FIPS) 201-2: Personal Identity Verification of Federal Employees and Contractors August 2013. FIPS 201-2 requires that the digital certificates incorporated into the Personal Identity Verification (PIV) identity credentials comply with the X.509 Certificate Policy for the U.S. Federal PKI Common Policy Framework. In addition, FIPS 201-2 requires that Federal identity badges referred to as PIV credentials, issued to Federal employees and Contractors comply with the Standard and associated NIST Special Publications 800-73, 800-76, 800-78, and 800-79.

(b) Special item numbers. GSA has established the e-Authentication Initiative (see URL: http://www.idmanagement.gov) to provide common infrastructure for the authentication of the public and internal Federal users for logical access to Federal e-Government applications and electronic services. To support the government-wide implementation of HSPD-12 and the Federal e-Authentication Initiative, GSA has established Special Item Numbers (SINs) pertaining to Authentication Products and Services, including Electronic Credentials, Digital Certificates, eAuthentication, Identify and Access Management, PKI Shared Service Providers, and HSPD-12 Product and Service Components.

(c) *Qualification information.* (1) All Authentication supplies and services must be qualified as being compliant with Government-wide requirements before they will be included on a GSA Information Technology (IT) Schedule contract. The Qualification Requirements and associated evaluation procedures against the Qualification Requirements for each SIN and the specific Qualification Requirements for HSPD-12 implementation components are presented at the following URL: http://www.idmanagement.gov.

(2) In addition, the National Institute of Standards and Technology (NIST) has established the NIST Personal Identity Verification Program (NPIVP) to evaluate integrated circuit chip cards and supplies against conformance requirements contained in FIPS 201. GSA has established the FIPS 201Evaluation Program to evaluate other supplies needed for agency implementation of HSPD-12 requirements where normative requirements are specified in FIPS 201 and to perform card and reader interface testing for interoperability. Products that are approved as FIPS-201 compliant through these evaluation and testing programs may be offered directly through HSPD-12 Supplies and Services Components SIN under the category "Approved FIPS 201-Compliant Products and services.

(d) *Qualification requirements*. Offerors proposing Authentication supplies and services under the established SINs are required to provide the following:

(1) Proposed items must be determined to be compliant with Federal requirements for that SIN. Qualification Requirements and procedures for the evaluation of supplies and services are posted at the URL: http://www.idmanagement.gov. GSA will follow these procedures in qualifying offeror's supplies and services against the Qualification Requirements for applicable to SIN. Offerors must submit all documentation certification letter(s) for Authentication Supplies and Services offerings at the same time as submission of proposal. Award will be dependent

upon receipt of official documentation from the Acquisition Program Management Office (APMO) listed below verifying satisfactory qualification against the Qualification Requirements of the proposed SIN(s).

(2) After award, Contractor agrees that certified supplies and services will not be offered under any other SIN on any Federal Supply Schedule

(3) (i) If the Contractor changes the supplies or services previously qualified, GSA may require the Contractor to resubmit the supplies or services for re-qualification.

(ii) If the Federal Government changes the qualification requirements or standards, Contractor must resubmit the supplies and services for re-qualification.

(4) Immediately prior to making an award, Contracting Officers MUST consult the following website to ensure that the supplies and/or services recommended for award under any Authentication Supplies and Services SINs are in compliance with the latest APL qualification standards: www.idmanagement.gov. A dated copy of the applicable page should be made and included with the award documents.

(e) *Demonstrating conformance.*

(1) The Federal Government has established Qualification Requirements for demonstrating conformance with the Standards. The following websites provide additional information regarding the evaluation and qualification processes

(i) For Identify and Access Management Services (IAMS) and PKI Shared Service Provider (SSP) Qualification Requirements and evaluation procedures: http://www.idmanagement.gov;

(ii) For HSPD-12 Product and Service Components Qualification Requirements and evaluation procedures: http://www.idmanagement.gov;

(iii) For FIPS 201 evaluation program testing and certification procedures: https://www.idmanagement.gov/fips201/.

(f) *Acquisition Program Management Office (APMO).* GSA has established the APMO to provide centralized technical oversight and management regarding the qualification process to industry partners and Federal agencies. Contact the following APMO for information on the eAuthentication Qualification process. Technical, APMO, FIPS 201, and HSPD-12 Points of Contact can be found below, or in an additional attachment to the solicitation.

[*The contracting officer should insert the points of contact information below, unless otherwise included elsewhere in the solicitation.*]

_____

(End of clause)

552.238-110 Commercial Satellite Communication (COMSATCOM) Services.

As prescribed in 538.273 (d)(34) insert the following clause:

COMMERCIAL SATELLITE COMMUNICATION (COMSATCOM) SERVICES (MAY 2023)

(a) *General background.* A Special Item Number (SIN) has been established for Commercial Satellite Communications (COMSATCOM) services, focused on transponded capacity and fixed and mobile subscription services, to make available common COMSATCOM services to all Ordering Activities.

(b) *Information assurance.* (1) The Contractor shall demonstrate, to the maximum extent practicable, the ability to meet:

(i) The Committee on National Security Systems Policy (CNSSP) 12, "National Information Assurance Policy for Space Systems used to Support National Security Missions," or

(ii) Department of Defense Directive (DoDD) 8581.1, "Information Assurance (IA) Policy for Space Systems Used by the Department of Defense."

(2) The Contractor shall demonstrate the ability to comply with the Federal Information Security Management Act of 2002 as implemented by Federal Information Processing Standards Publication 200 (FIPS 200), "Minimum Security Requirements for Federal Information and Information Systems." In response to ordering activity requirements, at a minimum, all services shall meet the requirements assigned against:

(i) A low-impact information system (per FIPS 200) that is described in the current revision of National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, "Recommended Security Controls for Federal Information Systems and Organizations," or

(ii) A Mission Assurance Category (MAC) III system that is described in the current revision of DoD Instruction (DoDI) 8500.2, "Information Assurance Implementation."

(3) The Contractor's information assurance boundary is where the Contractor's services connect to the user terminals/equipment (i.e., includes satellite command encryption (ground and space); systems used in the Satellite Operations Centers (SOCs), Network Operations Centers (NOCs) and teleport; and terrestrial infrastructure required for service delivery).

(c) *Delivery schedule.* The Contractor shall deliver COMSATCOM services in accordance with 552.238-86.

(d) *Portability.* The Contractor shall have the capability to redeploy COMSATCOM services, subject to availability. Portability shall be provided within the COMSATCOM Contractor's resources at any time as requested by the ordering activity. When portability is exercised, evidence of equivalent net present value (NPV) shall be provided by the Contractor.

(e) *Flexibility/optimization.* The Contractor shall have the capability to re-groom resources for spectral, operational, or price efficiencies. Flexibility/optimization shall be provided within the COMSATCOM Contractor's resources at any time as requested by the ordering activity. When flexibility/optimization is exercised, evidence of equivalent net present value (NPV) shall be provided by the Contractor. The Contractor is encouraged to submit re-grooming approaches for ordering activity consideration that may increase efficiencies for existing COMSATCOM services.

(f) *Net ready (interoperability).* COMSATCOM services shall be consistent with commercial standards and practices. Services shall have the capability to access and/or interoperate with Government or other Commercial teleports/gateways and provide enterprise service access to or among networks or enclaves. Interfaces may be identified as interoperable on the basis of participation in a sponsored interoperability program.

(g) *Network monitoring (Net OPS).* The Contractor shall have the capability to electronically collect and deliver near real-time monitoring, fault/incident/outage reporting, and information access to ensure effective and efficient operations, performance, and availability, consistent with commercial practices. Consistent with the Contractor's standard management practices, the Net Ops information will be provided on a frequency (example: every 6 hours, daily) and format (example: SNMP, XML) as defined in a requirement to a location/entity/electronic interface defined by the ordering activity. Specific reporting requirements will be defined by the Ordering Activity.

(h) *EMI/RFI identification, characterization, and geo-location.* The Contractor shall have the capability to collect and electronically report in near real-time Electro Magnetic Interference (EMI) / Radio Frequency Interference (RFI) identification, characterization, and geo-location, including the ability to identify and characterize sub-carrier EMI/RFI being transmitted underneath an authorized carrier, and the ability to geo-locate the source of any and all EMI/RFI. The Contractor shall establish and use with the ordering activity a mutually agreed upon media and voice communications capability capable of protecting "Sensitive, but Unclassified" data.

(i) *Security.* (1) The Contractor may be required to obtain/possess varying levels of personnel and facility security clearances up to U.S. Government TOP SECRET/Sensitive Compartmented Information (TS/SCI) or equivalent clearances assigned by the National Security Authority of a NATO Member State or Major Non-NATO Ally.

(2) For incident resolution involving classified matters, the Contractor shall provide appropriately cleared staff who can affect COMSATCOM services operations (example: satellite payload operations, network operations). The Contractor shall provide a minimum of one operations staff member AND a minimum of one person with the authority to commit the company if resolution requires business impacting decisions (example: Chief Executive Officer, Chief Operations Officer, etc.).

(3) When Communications Security or Transmission Security equipment or keying material is placed in the equipment/terminal shelter, the Contractor shall ensure compliance with applicable physical security directives/guidelines and that all deployed equipment/terminal operations and maintenance personnel shall possess the appropriate clearances, equal to or higher than the classification level of the data being transmitted. Where local regulations require use of foreign personnel for terminal operations and maintenance, then the Contractor shall ensure compliance with applicable security directives/guidelines and document to the U.S. Government's satisfaction that protective measures are in place and such individuals have equivalent clearances granted by the local host nation.

(4) For classified operations security (OPSEC), the Contractor shall ensure that all personnel in direct contact with classified OPSEC indicators (example: the unit, location, and time of operations) have U.S. SECRET or higher personnel security clearances, or, as appropriate, equivalent clearances assigned by the National Security Authority of a NATO Member State or Major Non-NATO Ally, in accordance with applicable security directives and guidelines.

(5) For classified requirements, cleared satellite operator staff must have access to secure voice communications for emergency purposes. Communications security equipment certified by the National Security Agency (NSA) to secure

unclassified and up to and including SECRET communication transmissions at all operations centers is preferred. If a Contractor is unable to have access to NSA-approved communications security equipment at its operations centers, then a combination of a "Sensitive but Unclassified" (SBU) cryptographic module approved by the U.S. National Institute for Standards and Technology and pre-arranged access to National Security Agency-approved communications security equipment at an agreed alternate facility is acceptable.

(6) The Contractor shall have the capability to "mask" or "protect" users against unauthorized release of identifying information to any entity that could compromise operations security. Identifying information includes but is not limited to personal user and/or unit information including tail numbers, unit names, unit numbers, individual names, individual contact numbers, street addresses, etc.

(j) *Third party billing for COMSATCOM subscription services.*The Contractor shall identify authorized network infrastructure for the ordering activity. In some cases, the user of the terminal may access network infrastructure owned or operated by a third party. In the event a terminal is used on a third party's network infrastructure, the Contractor shall provide to the ordering activity, invoices and documentation reflecting actual usage amount and third party charges incurred. The ordering activity shall be billed the actual third party charges incurred, or the contract third party billing price, whichever is less.

(End of clause)

552.238-111 Environmental Protection Agency Registration Requirement.

As prescribed in 538.273 (d)(35) insert the following clause:

ENVIRONMENTAL PROTECTION AGENCY REGISTRATION REQUIREMENT (JAN 2022)

(a) With respect to the products described in this solicitation which require registration with the Environmental Protection Agency (EPA), as required by the Federal Insecticide, Fungicide, and Rodenticide Act, Section 3, Registration of Pesticides, awards will be made only for such products that have been assigned an EPA registration number, prior to the time of bid opening.

(b) The offeror shall insert in the spaces provided in this section, the manufacturer's and/or distributor's name and the "EPA Registration Number" for each item offered. Any offer which does not specify a current "EPA Registration Number" in effect for the duration of the contract period, and including the manufacturer's and/or distributor's name will be rejected.

Items			
Item Numbers	Name of Manufacturer / Distributor	EPA Registration Number	Date of Expiration

(c) If, during the performance of a contract awarded as a result of this solicitation, the EPA Registration Number for products being furnished is terminated, withdrawn, canceled, or suspended, and such action does not arise out of causes beyond the control, and with the fault or negligence of the Contractor or subcontractor, the Government may terminate the contract pursuant to either the Default Clause or Termination for Cause Paragraph (contained in the clause 52.212-4, Contract Terms and Conditions-Commercial Products and Commercial Services), whichever is applicable to the resultant contract.

(End of clause)

552.238-112 Definitions—Federal Supply Schedule Contracts.

As prescribed in 538.273 FSS solicitation provisions and contract clauses. (d) insert the following clause:

DEFINITIONS-FEDERAL SUPPLY SCHEDULE CONTRACTS (MAR 2024)

As used in this contract,

Eligible means an entity that meets the requirements prescribed by statute, regulation, or other authority for purposes of being able to use Federal Supply Schedule (FSS) contracts. Information about FSS eligibility is available at https://www.gsa.gov/eligibilitydeterminations.

Ordering activity (also called "ordering agency" and "ordering office") means an entity that is eligible to place orders or establish blanket purchase agreements (BPA) under this contract.

(End of clause)

552.238-113 Authorities Supporting Use of Federal Supply Schedule Contracts.

As prescribed in 538.273(d), insert the following clause:

AUTHORITIES SUPPORTING USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS (MAR 2024)

(a) Ordering activities are able to use Federal Supply Schedule (FSS) contracts based upon a number of statutes, regulations, and other authorities. Authorities allowing ordering activities use of FSS contracts include, but are not limited to:

(1) 25 U.S.C. 1660g(e), which provides for the use by urban Indian organizations, as defined in 25 U.S.C. 1603, for the purposes of carrying out a contract or grant pursuant to 25 U.S.C. chapter 18, subchapter IV.

(2) 25 U.S.C. 2507, which provides for the use by tribally controlled schools, as defined in 25 U.S.C. 2511, for the purposes of carrying out a grant pursuant to 25 U.S.C. chapter 27 (known as the Tribally Controlled Schools Act).

(3) 25 U.S.C. 4111(j), which provides for the use by Indian Tribes, as defined in 25 U.S.C. 4103, and tribally designated housing entities, as defined in 25 U.S.C. 4103, for the purposes of carrying out a contract, grant, or cooperative agreement pursuant to 25 U.S.C. chapter 43 (known as the Native American Housing Assistance and Self Determination Act (NAHASDA)).

(4) 25 U.S.C. 5324(k), which provides for the use by Tribal organizations, as defined in 25 U.S.C 5304, for the purposes of carrying out a contract, grant, or cooperative agreement pursuant to 25 U.S.C. chapter 46 (known as the Indian Self-Determination and Education Assistance Act (ISDEAA)).

(5) 25 U.S.C. 5370 and 25 U.S.C. 5396, which provides for the use by Indian Tribes, as defined in 25 U.S.C. 5304, for the purpose of carrying out a compact or funding agreement pursuant to 25 U.S.C. chapter 46 (known as ISDEAA).

(6) 40 U.S.C. 113(d), which provides for the use by the Senate, the House of Representatives, and the Architect of the Capitol (including any building, activity, or function under the direction of the Architect of the Capitol).

(7) 40 U.S.C. 501, which provides for the use by executive agencies as defined in 5 U.S.C. 105.

(8) 40 U.S.C. 502(a), which provides for the use by Federal agencies as defined in 40 U.S.C. 102, the District of Columbia, and mixed-ownership Government corporations as defined in 31 U.S.C. 9101.

(9) 40 U.S.C. 502(b), which provides for the use by qualified nonprofit agencies for other severely disabled, as defined in 41 U.S.C. 8501(6), and qualified nonprofit agencies for the blind, as defined in 41 U.S.C. 8501(7), for the purposes of making or providing to the Government a commodity or service that has been determined by the Committee for Purchase From People Who Are Blind or Severely Disabled under 41 U.S.C. 8503 to be suitable for procurement by the Government.

(10) 40 U.S.C. 502(c), which provides for the use by State or local governments, as defined in 40 U.S.C. 502(c)(3)(A), for the purpose of purchasing the types of supplies and services described in 40 U.S.C. 502(c). The types of supplies and services described in 40 U.S.C. 502(c) are limited to those available in the Information Technology Category and the Security and Protection Category (or any successor categories). The GSA program implementing this authority is the Cooperative Purchasing program.

(11) 40 U.S.C. 502(d), which provides for the use by State or local governments, as defined in 40 U.S.C. 502(c)(3)(A), for the purposes of facilitating disaster preparedness or response, facilitating recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), or facilitating recovery from terrorism, nuclear, biological, chemical, or radiological attack. The GSA program implementing this authority is the Disaster Purchasing program.

(12) 40 U.S.C. 502(e), which provides for the use by the American National Red Cross and other qualified organizations, as defined in 40 U.S.C. 502(e)(3). Purchases under this authority by the American National Red Cross shall be used in furtherance of the purposes of the American National Red Cross set forth in 36 U.S.C. 300102. Purchases under this authority by other qualified organizations shall be used in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency.

(13) 42 U.S.C. 247d, which provides for the use by State or local governments, as defined in 40 U.S.C.502(c)(3)(A), when a public health emergency has been declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act. The GSA program implementing this authority is the Public Health Emergencies program.

(14) FAR subpart 51.1, which provides for the use by contractors, including subcontractors, when such use is authorized pursuant to FAR subpart 51.1.

(End of clause)

552.238-114 Use of Federal Supply Schedule Contracts by Eligible Non-Federal Entities.

As prescribed in 538.7005 Contract clause. , insert the following clause:

USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY ELIGIBLE NON-FEDERAL ENTITIES (MAR 2024)

(a) *Definition — Non-Federal entity,* as used in this clause, means any State, local, territorial, or Tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education); and any other non-Federal organization (*e.g.,* a qualified nonprofit agency as defined in 40 U.S.C. 502(b)).

(b) *Responsibilities.* Eligible non-Federal entities are responsible for complying with—

(1) FSS ordering guidance. Information about GSA's FSS contracts, including ordering guidance is available at *https://www.gsa.gov/schedules;* and

(2) Any conditions of the underlying authority(ies) supporting the use of FSS contracts (*e.g.,* 40 U.S.C. 502(c) limits purchases to specific supplies and services available under FSS contracts).

(c) *Acceptance.* (1) The Contractor is encouraged, but not obligated, to accept orders from eligible non-Federal entities under this contract. The Contractor may, within 5 business days of receipt of an order, reject an order from an eligible non-Federal entity for any reason. However, purchase card orders must be rejected within 24 hours of receipt of the order. Failure to reject an order within these timeframes shall constitute acceptance.

(2) The Contractor is encouraged, but not obligated, to enter into blanket purchase agreements (BPAs) with eligible non-Federal entities under the terms of this contract. The Contractor should respond to any requests to enter into a BPA within 5 business days of receipt of the request.

(d) *Conditions of acceptance.* If the Contractor accepts an order from or enters into a BPA with an eligible non-Federal entity under this contract, the following conditions apply:

(1) For orders, a separate contract is formed between the Contractor and the eligible non-Federal entity (herein "the parties"). For BPAs, a separate agreement is formed between the parties.

(2) The resultant order or BPA shall incorporate by reference all the terms and conditions of this contract except for:

(i) FAR clause 52.233-1, Disputes, and

(ii) Paragraphs (d) Disputes, (h) Patent indemnity, and (r) Compliance with laws unique to Government contracts, of GSAR clause 552.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION)., Contract Terms and Conditions—Commercial Products and Commercial Services.

(3) The U.S. Government is not liable for the performance or nonperformance of any order or BPA entered into under this contract by the parties. Disputes which cannot be resolved by the parties 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, the parties are encouraged to resolve disputes through alternative dispute resolution.

(4) Neither party will look to, primarily or in any secondary capacity, or file any claim against the U.S. Government or any of its agencies with respect to any failure of performance by the other party.

(e) *Additional terms and conditions.* Terms and conditions required by statute, ordinance, regulation, or as otherwise required by an eligible non-Federal entity may be made a part of an order or a BPA to the extent that these terms and conditions do not conflict with the terms and conditions of this contract. The Contractor should review any such additional terms and conditions prior to accepting an order or entering into a BPA with an eligible non-Federal entity.

(f) *Payment.* (1) The Contractor is responsible for obtaining all payments due to the Contractor from the eligible non-Federal entity under the terms and conditions of the order or the BPA entered into under this contract, without recourse to the U.S. Government or any of its agencies that awarded this contract or administer this contract.

(2) If an eligible non-Federal entity is subject to a State prompt payment law, the terms and conditions of the applicable State law apply to the orders placed under this contract by such entities. If an eligible non-Federal entity is not subject to a State prompt payment law, the terms and conditions of paragraph (i) of the GSAR clause at 552.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION)., apply to such entities in the same manner as to Federal entities.

(g) *Fee and sales reporting.* The requirements of the GSAR clause at 552.238-80 Industrial Funding Fee and Sales Reporting., Industrial Funding Fee and Sales Reporting, apply to any sales to eligible non-Federal entities under this contract.

(End of clause)

552.238-115 Special Ordering Procedures for the Acquisition of Order-Level Materials.

As prescribed in 538.7204 (b), insert the following clause:

SPECIAL ORDERING PROCEDURES FOR THE ACQUISITION OF ORDER-LEVEL MATERIALS (SEP 2024)

(a) *Definition.*

Order-level materials, as used in this clause supplies and/or services acquired in direct support of an individual task or delivery order placed against a Federal Supply Schedule (FSS) contract or FSS blanket purchase agreement (BPA), when the supplies and/or services are not known at the time of Schedule contract or FSS BPA award. The prices of order-level materials are not established in the FSS contract or FSS BPA. Order-level materials acquired following the procedures in paragraph (d) of this clause are done so under the authority of the FSS program, pursuant to 41 U.S.C. 152(3), and are not open market items, which are discussed in FAR 8.402(f).

(b) FAR 8.403(b) provides that GSA may establish special ordering procedures for a particular FSS.

(c) The procedures in FAR subpart 8.4 apply to this contract, with the exceptions listed in this clause. If a requirement in this clause is inconsistent with FAR subpart 8.4, this clause takes precedence pursuant to FAR 8.403(b).

(d) Procedures for including order-level materials when placing an individual task or delivery order against an FSS contract or FSS BPA.

(1) The procedures discussed in FAR 8.402(f) do not apply when placing task and delivery orders that include order-level materials.

(2) Order-level materials are included in the definition of the term "material" in FAR clause 52.212-4 Alternate I, and, therefore, all provisions of FAR clause 52.212-4 Alternate I that apply to "materials" also apply to order-level materials.

(3) Order-level materials shall only be acquired in direct support of an individual task or delivery order and not as the primary basis or purpose of the order.

(4) The value of order-level materials in a task or delivery order, or the cumulative value of order-level materials in orders against an FSS BPA awarded under a FSS Contract shall not exceed 33.33%.

(5) All order-level materials shall be placed under the Order-Level Materials SIN.

(6) Prior to the placement of an order that includes order-level materials, the Ordering Activity shall follow the procedures in FAR 8.404(h).

(7) To support the price reasonableness of order-level materials–

(i) The Contractor proposing order-level materials as part of a solution shall obtain a minimum of three quotes for each order-level material above the simplified acquisition threshold.

(A) One of these three quotes may include materials furnished by the Contractor under paragraph (i)(1)(ii)(A) of FAR clause 52.212-4 Alternate I.

(B) If the Contractor cannot obtain three quotes, the Contractor shall maintain its documentation of why three quotes could not be obtained to support their determination.

(C) A Contractor with an approved purchasing system, per FAR subpart 44.3, shall instead follow its purchasing system requirement and is exempt from the requirements in paragraphs (d)(7)(i)(A) through (B) of this clause.

(ii) The Ordering Activity Contracting Officer must make a determination that prices for all order-level materials are fair and reasonable. The Ordering Activity Contracting Officer may base this determination on a comparison of the quotes received in response to the task or delivery order solicitation or other relevant pricing information available.

(iii) If indirect costs are approved per paragraph (i)(1)(ii)(D)(2) of FAR clause 52.212-4 Alternate I, the Ordering Activity Contracting Officer must make a determination that all indirect costs approved for payment are fair and reasonable. Supporting data shall be submitted in a form acceptable to the Ordering Activity Contracting Officer.

(8) Prior to an increase in the ceiling price of order-level materials, the Ordering Activity Contracting Officer shall follow the procedures at FAR 8.404(h)(3)(iv).

(9) In accordance with GSAR clause 552.238-83, Examination of Records by GSA (Federal Supply Schedules), GSA has the authority to examine the Contractor's records for compliance with the pricing provisions in FAR clause 52.212-4 Alternate I, to include examination of any books, documents, papers, and records involving transactions related to the contract for overbillings, billing errors, and compliance with the Industrial Funding Fee (IFF) and the Sales Reporting clauses of the contract.

(10) Order-level materials are exempt from the following clauses:

(i) 552.238-77 Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists.

(ii) 552.238-81 Price Reductions.

552.238-120, Economic Price Adjustment—Federal Supply Schedule Contracts. (iii)

(End of clause)

552.238-116 Option to Extend the Term of the FSS Contract.

As prescribed in 538.273 (d)(36), insert the following clause:

OPTION TO EXTEND THE TERM OF THE FSS CONTRACT (MAR 2022)

(a) The Government may require continued performance of this contract for an additional 5 year period. This option may be exercised up to three times.

(b) The Contracting Officer may exercise the option by providing written notice to the Contractor 30 days before the contract expires

(End of clause)

552.238-117 Price Adjustment—Failure to Provide Accurate Information

As prescribed in 538.273(d)(37), insert the following clause:

PRICE ADJUSTMENT—FAILURE TO PROVIDE ACCURATE INFORMATION (OCT 2023)

(a) The Government, at its election, may reduce the price of this contract or contract modification if the Contracting Officer determines after award of this contract or contract modification that the price negotiated was increased by a significant amount because the Contractor failed to:

(1) Provide information required by this solicitation/contract or otherwise requested by the Government; or

(2) Submit information that was current, accurate, and complete; or

(3) Disclose changes in the Contractor’s commercial pricelist(s), discounts or discounting policies which occurred after the original submission and prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the date it is submitted.

(c) If any reduction in the contract price under this clause reduces the price for items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States—

(1) The amount of the overpayment; and

(2) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective each quarter prescribed by the Secretary of Treasury under 26 U.S.C.6621(a)(2).

(d) Failure to agree on the amount of the decrease shall be resolved as a dispute.

(e) In addition to the remedy in paragraph (a) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

552.238-118 Single-use Plastic (SUP) Free Packaging Identification.

As prescribed in 538.273(a), insert the following provision:

SINGLE-USE PLASTIC (SUP) FREE PACKAGING IDENTIFICATION (JUL 2024)

(a) *Single-use plastic free packing promotions*. Ordering activities may focus their GSA Advantage!® search on the designated icon and price to meet climate objectives. Contractors who want to be considered must include SUP free packaging as defined in 502.101.

(b) *Procedures*. Offerors may complete the information in paragraph (c) of this provision when the resulting contract includes supplies or products.

(1) *SUP free brand packaging*. Schedule contractors may incorporate this information as part of their Schedule price list once the products that utilize SUP free brand packaging are incorporated under their Schedule contract, prior to competing for an order for the identified product.

(2) *SUP free shipping packaging*. If the offeror is a reseller who is unable to address the brand packaging, but would like to pursue the icon for SUP free shipping packaging, they may identify this availability.

(c) *Optional identification submission*. In order to be considered for the designated icon noted in paragraph (d) of this provision, the offeror must provide the following information.

(1) *SUP free brand packaging*. The offeror identifies that some or all supplies delivered under a contract resulting from this solicitation __ will use SUP free brand packaging. SUP free brand packaging where applicable should be included in the offer's price list.

(2) *SUP free shipping packaging.*

(i) The offeror identifies that some or all the supplies to be delivered under a contract resulting from this solicitation __ will use only SUP free shipping packaging. SUP free shipping packaging where applicable should be included in the offer's price list.

(ii) If the offeror responded “will” in paragraph (c)(2)(i) of this provision, the offeror identifies that the SUP free shipping packaging __ does need to be requested by the ordering official.

(d) *Identification standards*. SUP free packaging icon for the types identified in paragraph (c) of this provision, will be available on GSA Advantage!®, as applicable.

(e) Verification of SUP free packaging. An offeror, in identifying an item with SUP free packaging, must possess evidence or rely on a reasonable basis to substantiate the claim. The Government will accept an offeror's claim of SUP free packaging on the basis of possession of competent and reliable evidence. For any test, analysis, research, study, or other evidence to be “competent and reliable,” it must have been conducted and evaluated in an objective manner, using procedures generally accepted in the profession to yield accurate and reliable results.

(End of provision)

552.238-119 Single-use Plastic (SUP) Free Packaging Availability.

As prescribed in 538.273(d), insert the following clause:

SINGLE-USE PLASTIC (SUP) FREE PACKAGING AVAILABILITY (JUL 2024)

(a) Definitions. As used in this clause—

(b) *Single-use plastic (SUP) packaging* means any plastic used for the containment, protection, handling, delivery, or presentation of goods by a producer for a consumer with the intent of being used once and then discarded, recycled or disposed of immediately after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer. Packaging includes, but is not limited to brand packaging, grouped packaging, shipping packaging, ancillary packaging, and redundant packaging.

Single-use plastic (SUP) free packaging means product or shipping containment materials free of single-use plastic. Other attributes of single-use plastic free packaging may include the following: use of minimal materials, will be reused multiple times, or produces less emissions compared to traditional manufacturing or distribution. These additional attributes alone do not qualify as SUP free. Examples may include, but are not limited, to corrugated cardboard, paper products, and paper backed tape.

(b) *General*. The Contractor, in connection with this contract, is encouraged to—

(1) Evaluate their products for redundant or unnecessary packaging that can be eliminated without affecting quality.

(2) Package all products for shipment according to the Government's instructions or, if there are no instructions, in a manner sufficient to ensure that the products are delivered in undamaged condition with as little plastic waste material as possible.

(3) Limit the use of plastic packaging materials that have a high likelihood of not being reused or recycled, as appropriate (e.g., plastic casing or wrapping).

(4) Adopt SUP free packaging to the maximum extent practicable, as appropriate.

(c) *Procedures*.

(1) *Price premiums and discounts*. For any single-use plastic (SUP) free packaging identified per 552.238-118, Single-use Plastic (SUP) Free Packaging Identification, the Contractor may include in the submitted price list (see the Schedule, also referred to as MAS, solicitation instructions for submitting price list SUP free packaging). The submitted FSS contract price list may include a separate means of displaying information regarding product packaging. If the Contractor is providing SUP free packaging at either a price premium or discount, this should be clearly identified in the submitted price list.

(2) *Submission requirements*. As additional SUP free packaging becomes available, the Contractor is encouraged to notify GSA of these changes, and is responsible for keeping all electronic catalog data current.

(3) *Identification of SUP free packaging*. For easy identification of SUP free packaging, once available, GSA will use a SUP free packaging icon in GSA Advantage!®.

(i) Offerors who provide SUP free packaging and want to benefit from the GSA Advantage!® SUP free packaging icon must provide the information required in 552.238-118, Single-use Plastic (SUP) Free Packaging Identification.

(ii) The Contractor is encouraged to place the GSA logo and GSA Advantage!® SUP free packaging icon on their website and FSS price list for applicable supplies, see https://www.gsa.gov/logos. If the Contractor elects to use the GSA logo or icon, the website must clearly distinguish between those items awarded on the GSA contract and any other items offered by the Contractor on an open market basis.

(d) Reliability. Accuracy of information and computation of prices for this clause is the responsibility of the Contractor. In addition to the other remedies available in the contract, the remedies may include, but are not limited to, the following:

(1) If SUP free packaging is provided at a higher rate but different packaging is received, the Government may pursue corrective action.

(2) If SUP free packaging is utilized, but the product received is damaged, the Contractor shall replace the item, refund the item, or the Government may pursue corrective action.

(3) Inclusion of incorrect information in the price list regarding SUP free packaging may cause the Contractor to correct and resubmit the price list.

(4) Failure to correct applicable information for this clause, may constitute sufficient cause for termination, pursuant to FAR 52.212-4, Contract Terms and Condition-Commercial Products and Commercial Services, or remedies as provided by law.

(End of provision)

552.238-120 Economic Price Adjustment—Federal Supply Schedule Contracts.

As prescribed in 538.273 (d), insert the following clause:

ECONOMIC PRICE ADJUSTMENT—FEDERAL SUPPLY SCHEDULE CONTRACTS (SEP 2024)

(a) *Definition*. "Economic price adjustment method", as used in this clause, means the agreed upon procedures by which pricing may be adjusted throughout the contract period to include, but not limited to, the mechanism(s) to be used to adjust pricing (*e.g.*, adjustments based on established pricing), the pricing subject to adjustment, and any other requirements (*e.g.*, timing, frequency, limits on increases).

(b) *General.* This contract provides for economic price adjustment (EPA) to contract pricing based on the established EPA method. EPA provides for the increase and decrease to stated contract pricing upon the occurrence of specified conditions described in the EPA method, such as market index changes or unforeseeable significant changes in market conditions.

(c) *Exceptions*. This clause does not cover—

(1) Adjustments based on statute, Executive Order, or regulation (*e.g.*, Service Contract Labor Standards (41 U.S.C. chapter 67) and AbilityOne procurements (FAR subpart 8.7));

(2) Adjustments based on a change clause (*e.g.*, paragraph (c) of GSAR clause 552.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION 52.212-4));

(3) Price reductions made under GSAR clause 552.238-81, Price Reductions;

(4) Adjustments based on GSAR clause 552.238-117, Price Adjustment-Failure to Provide Accurate Information; and

(5) Adjustments based on a contract clause that authorizes an adjustment based on specified actions or conditions.

(d) *Economic price adjustment method*. The EPA method may be revised through mutual agreement of the parties. In the event of a conflict between the EPA method and this contract, the contract shall control.

(e) *Submission requirements*. The Contractor shall submit EPA requests to the Federal Supply Schedule (FSS) Contracting Officer pursuant to the EPA method. EPA requests shall fully conform to the requirements of the EPA method and include sufficient information to support the request. The FSS Contracting Officer may request additional information from the Contractor.

(f) *Contracting Officer responsibilities*. The FSS Contracting Officer will—

(1) Review the EPA request to ensure conformance with the EPA method,

(2) Make a determination. The FSS Contracting Officer may use any information (*e.g.*, market research) deemed necessary to support their determination. The FSS Contracting Officer may determine to—

(i) Accept the EPA request either in whole or in part,

(ii) Reject the EPA request either in whole or in part, or

(iii) Take any other action deemed to be in the best interest of the Government (*e.g.*, negotiate a more favorable EPA).

(3) Notify the Contractor of their determination, and

(4) Modify the contract, as applicable, to reflect the determination. Contract items that need to be removed from the contract as a result of rejection or an inability to reach agreement are to be removed in accordance with 552.238-79, Cancellation.

(g) *Effective date*. EPA requests approved by the FSS Contracting Officer under this clause shall apply to orders issued on or after the effective date of the contract modification. Blanket Purchase Agreements (BPAs) may be modified by the ordering agency in accordance with the terms and conditions of the BPA.

(h) *Update of contract pricing and catalog data*. The Contractor shall update its FSS pricing and any other FSS catalog data in accordance with the terms and conditions of this contract.

(End of clause)

552.239 [Reserved]

552.240 [Reserved]

552.241 [Reserved]

552.241-70 Availability of Funds for the Next Fiscal Year or Quarter.

As prescribed in 541.501 (a), insert the following:

AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR OR QUARTER (AUG 2010) (DEVIATION FAR 52.232-19)

Funds are not presently available for performance under this contract beyond _____. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond _____, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

552.241-71 Disputes (Utility Contracts).

As prescribed in 541.501 (b), insert the following clause:

DISPUTES (UTILITY CONTRACTS) (AUG 2010)

The requirements of the Disputes clause at FAR 52.233-1 are supplemented to provide that matters involving the interpretation of tariffed retail rates, tariff rate schedules, and tariffed terms provided under this contract are subject to the jurisdiction and regulation of the utility rate commission having jurisdiction.

(End of clause)

552.242 [Reserved]

552.242-70 Status Report of Orders and Shipments.

As prescribed in 542.1107 , insert the following clause:

STATUS REPORT OF ORDERS AND SHIPMENTS (FEB 2009)

(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 GSAForm1678, Status Report of Orders and Shipments, in accordance with instructions on the form. The information required by the GSAForm1678 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. Reports shall be forwarded to the ACO no later than the seventh workday of the succeeding month.

(b) A copy of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be reproduced by the Contractor.

(End of clause)

552.243 [Reserved]

552.243-71 Equitable Adjustments.

As prescribed in 543.205 , insert the following clause:

EQUITABLE ADJUSTMENTS (MAR 2019)

(a) This clause governs the determination of equitable adjustments to which the Contractor may be entitled under the "Changes" clause prescribed by FAR 52.243-4, the "Changes and Changed Conditions" clause prescribed by FAR 52.243-5, the "Differing Site Conditions" clause prescribed by FAR 52.236-2, and any other provision of this contract allowing

entitlement to an equitable adjustment. This clause does not govern determination of the Contractor's relief allowable under the "Suspension of Work" clause prescribed by FAR 52.242-14.

(b) At the written request of the Contracting Officer, the Contractor shall submit a proposal, in accordance with the requirements set forth herein, for an equitable adjustment to the contract for changes or other conditions that may entitle a Contractor to an equitable adjustment. If the Contractor deems an oral or written order to be a change to the contract, it shall promptly submit to the Contracting Officer a proposal for equitable adjustment attributable to such deemed change. The proposal shall also conform to the requirements set forth herein.

(c) The proposal shall be submitted within the time specified in the "Changes", "Changes and Changed Conditions", or "Differing Site Conditions" clause, as applicable, or such other time as may reasonably be required by the Contracting Officer.

(d) Proposals for equitable adjustments, including no cost requests for adjustment of the contract's required completion date, shall include a detailed breakdown of the following elements, as applicable:

(1) Direct Costs.

(2) Markups.

(3) Change to the time for completion specified in the contract.

(e) *Direct Costs*. The Contractor shall separately identify each item of deleted and added work associated with the change or other condition giving rise to entitlement to an equitable adjustment, including increases or decreases to unchanged work impacted by the change. For each item of work so identified, the Contractor shall propose for itself and, if applicable, its first two tiers of subcontractors, the following direct costs:

(1) Material cost broken down by trade, supplier, material description, quantity of material units, and unit cost (including all manufacturing burden associated with material fabrication and cost of delivery to site, unless separately itemized);

(2) Labor cost broken down by trade, employer, occupation, quantity of labor hours, and burdened hourly labor rate, together with itemization of applied labor burdens (exclusive of employer's overhead, profit, and any labor cost burdens carried in employer's overhead rate);

(3) Cost of equipment required to perform the work, identified with material to be placed or operation to be performed;

(4) Cost of preparation and/or revision to shop drawings and other submittals with detail set forth in paragraphs (e)(1) and (e)(2) of this clause;

(5) Delivery costs, if not included in material unit costs;

(6) Time-related costs not separately identified as direct costs, and not included in the Contractor's or subcontractors' overhead rates, as specified in paragraph (g) of this clause; and

(7) Other direct costs.

(f) Marked-up costs of subcontractors below the second tier may be treated as other direct costs of a second tier subcontractor, unless the Contracting Officer requires a detailed breakdown under paragraph (i) of this clause.

(g) *Extensions of Time and Time-related Costs.* The Contractor shall propose a daily rate for each firm's time-related costs during the affected period, and, for each firm, the increase or decrease in the number of work days of performance attributable to the change or other condition giving rise to entitlement to an equitable adjustment, with supporting analysis. Entitlement to time and time-related costs shall be determined as follows:

(1) Increases or decreases to a firm's time-related costs shall be allowed only if such increase or decrease necessarily and exclusively results from the change or other condition giving rise to entitlement to an equitable adjustment.

(2) The Contractor shall not be entitled to an extension of time or recovery of its own time-related costs except to the extent that such change or other condition necessarily and exclusively causes its duration of performance to extend beyond the completion date specified in the contract.

(3) Costs may be characterized as time-related costs only if they are incurred solely to support performance of this contract and the increase or decrease in such costs is solely dependent upon the duration of a firm's performance of work.

(4) Costs may not be characterized as time-related costs if they are included in the calculation of a firm's overhead rate.

(5) Equitable adjustment of time and time-related costs shall not be allowed unless the analysis supporting the proposal complies with provisions specified elsewhere in this contract regarding the Contractor's project schedule.

(h) *Markups*. For each firm whose direct costs are separately identified in the proposal, the Contractor shall propose an overhead rate, profit rate, and where applicable, a bond rate and insurance rate. Markups shall be determined and applied as follows:

(1) Overhead rates shall be negotiated, and may be subject to audit and adjustment.

(2) Profit rates shall be negotiated, but shall not exceed ten percent, unless entitlement to a higher rate of profit may be demonstrated.

(3) The Contractor and its subcontractor[s] shall not be allowed overhead or profit on the overhead or profit received by a subcontractor, except to the extent that the subcontractor's costs are properly included in other direct costs as specified in paragraph (f) of this clause.

(4) Overhead rates shall be applied to the direct costs of work performed by a firm, and shall not be allowed on the direct costs of work performed by a subcontractor to that firm at any tier except as set forth below in paragraphs (h)(6) and (h)(7) of this clause.

(5) Profit rates shall be applied to the sum of a firm's direct costs and the overhead allowed on the direct costs of work performed by that firm.

(6) Overhead and profit shall be allowed on the direct costs of work performed by a subcontractor within two tiers of a firm at rates equal to only fifty percent of the overhead and profit rates negotiated pursuant to paragraphs (h)(1) and (h)(2) of this clause for that firm, but not in excess of ten percent when combined.

(7) Overhead and profit shall not be allowed on the direct costs of a subcontractor more than two tiers below the firm claiming overhead and profit for subcontractor direct costs.

(8) If changes to a Contractor's or subcontractor's bond or insurance premiums are computed as a percentage of the gross change in contract value, markups for bond and insurance shall be applied after all overhead and profit is applied. Bond and insurance rates shall not be applied if the associated costs are included in the calculation of a firm's overhead rate.

(9) No markup shall be applied to a firm's costs other than those specified herein.

(i) At the request of the Contracting Officer, the Contractor shall provide such other information as may be reasonably necessary to allow evaluation of the proposal. If the proposal includes significant costs incurred by a subcontractor below the second tier, the Contracting Officer may require the same detail for those costs as required for the first two tiers of subcontractors, and markups shall be applied to these subcontractor costs in accordance with paragraph (h).

(j) *Proposal Preparation Costs*. If performed by the firm claiming them, proposal preparations costs shall be included in the labor hours proposed as direct costs. If performed by an outside consultant or law firm, proposal preparation costs shall be treated as other direct costs to the firm incurring them. Requests for proposal preparation costs shall include the following:

(1) A copy of the contract or other documentation identifying the consultant or firm, the scope of the services performed, the manner in which the consultant or firm was to be compensated, and if compensation was paid on an hourly basis, the fully burdened and marked-up hourly rates for the services provided.

(2) If compensation was paid on an hourly basis, documentation of the quantity of hours worked, including descriptions of the activities for which the hours were billed, and applicable rates.

(3) Written proof of payment of the costs requested. The sufficiency of the proof shall be determined by the Contracting Officer.

(k) Proposal preparation costs shall be allowed only if—

(1) The nature and complexity of the change or other condition giving rise to entitlement to an equitable adjustment warrants estimating, scheduling, or other effort not reasonably foreseeable at the time of contract award;

(2) Proposed costs are not included in a firm's time-related costs or overhead rate; and

(3) Proposed costs were incurred prior to a Contracting Officer's unilateral determination of an equitable adjustment under the conditions set forth in paragraph (o), or were incurred prior to the time the request for equitable adjustment otherwise became a matter in dispute.

(l) Proposed direct costs, markups, and proposal preparation costs shall be allowable in the determination of an equitable adjustment only if they are reasonable and otherwise consistent with the contract cost principles and procedures set forth in 31 of the Federal Acquisition Regulation (48 CFR 31) in effect on the date of this contract. Characterization of costs as direct costs, time-related costs, or overhead costs must be consistent with the requesting firm's accounting practices on other work under this contract and other contracts.

(m) If the Contracting Officer determines that it is in the Government's interest that the Contractor proceed with a change before negotiation of an equitable adjustment is completed, the Contracting Officer may order the Contractor to proceed on the basis of a unilateral modification to the contract increasing or decreasing the contract price by an amount to be determined later. Such increase or decrease shall not exceed the increase or decrease proposed by the Contractor.

(n) If the parties cannot agree to an equitable adjustment, the Contracting Officer may determine the equitable adjustment unilaterally.

(o) The Contractor shall not be entitled to any proposal preparation costs incurred subsequent to the date of a unilateral determination or denial of the request if the Contracting Officer issues a unilateral determination or denial under any of the following circumstances:

(1) The Contractor fails to submit a proposal within the time required by this contract or such time as may reasonably be required by the Contracting Officer.

(2) The Contractor fails to submit additional information requested by the Contracting Officer within the time reasonably required.

(3) Agreement to an equitable adjustment cannot be reached within 60 days of submission of the Contractor's proposal or receipt of additional requested information, despite the Contracting Officer's diligent efforts to negotiate the equitable adjustment.

(End of clause)

552.246 [Reserved]

552.246-70 Source Inspection by Quality Approved Manufacturer.

As prescribed in 546.302-70 , insert the following clause:

SOURCE INSPECTION BY QUALITY APPROVED MANUFACTURER (JUL 2009)

(a) *Inspection system and inspection facilities*. (1) The inspection system maintained by the Contractor under the Inspection of Supplies—Fixed Price clause (FAR 52.246-2) of this contract shall be maintained throughout the contract period. Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall comply with all requirements of editions in effect on the date of the solicitation of either Federal Standard 368 or the International Organization for Standardization (ISO) Standard 9001:2000 (Quality Management Systems—Requirements). A documented description of the inspection system shall be made available to the Government before contract award. At the sole discretion of the Contracting Officer, he/she may authorize in writing exceptions to the quality assurance standards identified above. The Contractor shall immediately notify the Administrative Contracting Officer (ACO) of any changes made in the inspection system during the contract period. As used herein, the term "inspection system" means the Contractor's own facility or any other facility acceptable to the Government that will be used to perform inspections or tests of materials and components before incorporation into end articles and for inspection of such end articles before shipment. When the manufacturing plant is located outside of the United States, the Contractor shall arrange delivery of the items from a plant or warehouse located in the United States (including Puerto Rico and the U.S. Virgin Islands) equipped to perform all inspections and tests required by the contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(2) In addition to the requirements in Federal Standard 368, ISO 9001:2000 or as otherwise approved by the Government, records shall include the date inspection and testing were performed. These records shall be available for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(3) Offerors are required to specify, in the space provided elsewhere in this solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(4) The Contractor shall provide the Administrative Contracting Officer ACO with the name(s) of the individual and an alternate responsible for the inspection system. In the event that the designated individual(s) becomes unavailable to oversee the inspection system, the Contractor, within 10 calendar days of such event, shall provide the ACO with the names of the replacement individual(s).

(b) *Inspection by the Contractor*.The Contractor is required to demonstrate that the supplies in the shipment have been subject to and have passed all inspections and tests required by the contract and meet the requirements of the contract.

(c) *Inspection by Government personnel*. (1) Although the Government will normally rely upon the Contractor's representation as to the quality of supplies shipped, it reserves the right under the Inspection of Supplies—Fixed Price clause to inspect and test all supplies called for by this contract, before acceptance, at all times and places, including the point of manufacture. When the Government notifies the Contractor of its intent to inspect supplies before shipment, the Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until inspection by the Government is completed and shipment is authorized by the Government.

(2) The offeror shall indicate, in the spaces provided below, the location(s) at which the supplies will be inspected or made available for inspection.

INSPECTION POINT

ITEM NO(S)	**NAME OF MANUFACTURER**	**NAME, ADDRESS (Including County), and**	**TELEPHONE NUMBER**
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: If additional space is needed, the offeror may furnish the requested information by an attachment to the offer.

(3) During the contract period, a Government representative may periodically select samples of supplies produced under this contract for Government verification, inspection, and testing. Samples selected for testing will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damaged in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and manner agreeable to both the Contractor and the Government.

(d) *Quality deficiencies*. (1) Notwithstanding any other clause of this contract concerning the conclusiveness of acceptance by the Government, any supplies or production lots shipped under this contract found to be defective in material or workmanship, or otherwise not in conformity with the requirements of this contract within a period of _____* months after acceptance shall, at the Government's option, be replaced, repaired, or otherwise corrected by the Contractor at no cost to the Government within 30 calendar days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice to replace or correct. The Contractor shall remove, at its own expense, supplies rejected or required to be replaced, repaired, or corrected. When the nature of the defect affects an entire batch or lot of supplies, and the Contracting Officer determines that correction can best be accomplished by retaining the nonconforming supplies, and reducing the contract price by an equitable amount under the circumstances, then the equitable price adjustment shall apply to the entire batch or lot of supplies from which the nonconforming item was taken.

(2) The Contractor may be issued a Quality Deficiency Notice (QDN) if:

(i) Supplies in process, shipped, or awaiting shipment to fill Government orders are found not to comply with contract requirements, or

(ii) deficiencies in either plant quality or process controls are found. Upon receipt of a QDN, the Contractor shall take immediate corrective action and shall suspend shipment of the supplies covered by the QDN until such time as corrective action has been completed. The Contractor shall notify the Government representative, within 5 workdays, of the action plan or the corrective action taken. The Government may elect to verify the corrective action at the Contractor location(s). Shipments of nonconforming supplies will be returned at the Contractor's expense and may constitute cause for termination of the contract. Delays due to the insurance of a QDN do not constitute excusable delay under the default clause of this contract. Failure to complete corrective action in a timely manner may result in termination of the contract.

(3) This contract may be terminated for default if subsequent Government inspection discloses that plant quality or process controls are not being maintained, supplies that do not meet the requirements of the contract are being shipped, or if the contractor fails to comply with any other requirement of this clause.

(e) *Additional cost for inspection and testing*. The Contractor shall be charged for any additional cost of inspection/testing or reinspecting/retesting supplies for the reasons stated in paragraph (e) of FAR 52.246-2, Inspection of Supplies-Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $

_____* per man-hour or fraction thereof if the inspection is at a GSA distribution center; $ _____* per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $ _____* per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Responsibility for rejected supplies*. When the Contractor fails to remove or provide instructions for the removal of rejected supplies under paragraph(d) of this clause, pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246-2, supplies may be—

(1) *Stored and charged against the Contractor's account;*

(2) *Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return shall also be charged against the Contractor's account);*

(3) *Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including the cost of the sale; or*

(4) *Otherwise disposed of by the Government.*

(g) *Subcontracting requirements*. The Contractor shall insert in any subcontracts the inspection or testing provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause of this contract. The Contractor shall be responsible for compliance by any subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause.

** Normally insert 12 months as the period during which defective or otherwise nonconforming supplies must be replaced. However, when the supplies being bought have a shelf life of less than 1 year, you should use the shelf-life period, or in the instance where you reasonably expect a longer period to be available, you should use the longer period.*

*** The rates to be inserted are established by the Commissioner of the Federal Acquisition Service or a designee.*

(End of clause)

552.246-71 Source Inspection by Government.

As prescribed in 546.302-71 , insert the following clause:

SOURCE INSPECTION BY GOVERNMENT (JUN 2009)

(a) *Inspection by Government personnel*.

(1) Supplies to be furnished under this contract will be inspected at source by the Government before shipment from the manufacturing plant or other facility designated by the Contractor, unless the Contractor is otherwise notified in writing by the Contracting Officer or a designated representative. Notwithstanding the foregoing, the Government may perform any or all tests contained in the contract specifications at a Government facility without prior written notice by the Contracting Officer before release of the supplies for shipment. Samples sent to a Government testing facility will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damaged in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and manner agreeable to both the Contractor and the Government.

(2) Government inspection responsibility will be assigned to the GSA quality assurance office which has jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for inspection is located. The Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until after inspection by the Government is completed and shipment is authorized by the Government.

(b) *Inspection and receiving reports*. For each shipment, the Contractor shall be responsible for preparation and distribution of inspection documents as follows: (1) DD Form 250, Material Inspection and Receiving Report, or computer formatted equivalent for deliveries to military agencies; or (2) GSA Form 308, Notice of Inspection for deliveries to GSA or

other civilian agencies. When required, the Contractor will be furnished a supply of GSA Form 308 and/or DD Form 250, and complete instructions for their preparation and distribution.

(c) *Inspection facilities*. (1) The inspection system required to be maintained by the Contractor in accordance with FAR 52.246-2, Inspection of Supplies—Fixed Price, may be the Contractor's own facilities or any other facilities acceptable to the Government. These facilities shall be utilized to perform all inspections and tests of materials and components before incorporation into end articles, and for the inspection of such end articles before shipment. The Government reserves the right to evaluate the acceptability and effectiveness of the Contractor's inspection system before award and periodically during the contract period.

(2) Offerors are required to specify, in the spaces provided elsewhere in the solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(3) The Contractor shall deliver the items specified in this contract from a plant or warehouse located within the United States (including Puerto Rico and the U.S. Virgin Islands) that is equipped to perform all inspections and tests required by this contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(d) *Availability of records*. (1) In addition to any other requirement of this contract, the Contractor shall maintain records showing the following information for each order received under the contract:

(i) Order number;

(ii) Date order received by the Contractor;

(iii) Quantity ordered;

(iv) Date scheduled into production;

(v) Batch or lot number, if applicable;

(vi) Date inspected and/or tested;

(vii) Date available for shipment;

(viii) Date shipped or date service completed; and

(ix) National Stock Number (NSN), or if none is provided in the contract, the applicable item number or other contractual identification.

(2) These records should be maintained at the point of source inspection and shall be available to the Contracting Officer, or an authorized representative, for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(e) *Additional cost for inspection and testing*. The Contractor will be charged for any additional cost for inspecting/ testing or reinspection/ retesting supplies for the reasons stated in paragraph (e) of FAR 52.246-2, Inspection of Supplies —Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $_____* per man-hour or fraction thereof if the inspection is at a GSA distribution center; $ _____* per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $_____* per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Responsibility for rejected supplies*. When the Contractor fails to remove or provide instructions for the removal of rejected supplies under FAR 52.246-2(h) pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246-2, supplies may be—

(1) Stored for the Contractor's account;

(2) Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return also shall be for the Contractor's account); or

(3) Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including the cost of the sale.

**The rates to be inserted are established by the Commissioner of the Federal Acquisition Service or a designee.*

(End of clause)

552.246-72 Final Inspection and Tests.

As prescribed in 546.312 , insert the following clause:

FINAL INSPECTION AND TESTS (SEP 1999)

The Contractor shall give written notice to the Contracting Officer at least 10calendar days before the date the work will be completed and ready for final inspection and tests. Final inspection and tests will begin within 10calendar days after the date specified in the Contractor's notice unless the Contracting Officer determines that the work is not ready for final inspection and so informs the Contractor.

(End of clause)

552.246-77 Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature.

As prescribed in 546.710 , insert the following clause:

ADDITIONAL CONTRACT WARRANTY PROVISIONS FOR SUPPLIES OF A NONCOMPLEX NATURE (JUL 2009)

(a) *Definitions*. *Correction*, as used in this clause, means the elimination of a defect.

(b) *Contractor's obligations*. When return, correction, or replacement is required, the Contractor shall be responsible for all costs attendant to the return, correction, or replacement of the nonconforming supplies. Any removal in connection with the above shall be done by the Contractor at its expense.

(c) *Remedies available to the Government*. When the nature of the defect in the nonconforming item is such that the defect affects an entire batch or lot of material, then the equitable price adjustment shall apply to the entire batch or lot of material from which the nonconforming item was taken.

(End of clause)

552.246-78 Inspection at Destination.

As prescribed in 546.302-72 insert the following clause:

INSPECTION AT DESTINATION (JUL 2009)

Inspection of all purchases under this contract will be made at destination by an authorized Government representative.

552.252 [Reserved]

552.252-5 Authorized Deviations in Provisions.

As prescribed in 552.107-70 (a), insert the following provision:

AUTHORIZED DEVIATIONS IN PROVISIONS (NOV 2021) (DEVIATION FAR 52.252-5)

(a) *Deviations to FAR provisions*. This solicitation identifies any authorized deviation to a Federal Acquisition Regulation (FAR) (48 CFR chapter 1) provision by—

(1) The addition of "(DEVIATION)" after the date of the FAR provision when an authorized deviation to a FAR provision is being used, and

(2) The addition of "(DEVIATION FAR (provision number))" after the date of the GSAR provision when a GSAR provision is being used in lieu of a FAR provision.

(b) *Deviations to GSAR provisions*. This solicitation identifies any authorized deviation to a General Services Administration Acquisition Regulation (GSAR) (48 CFR chapter 5) provision by the addition of "(DEVIATION)" after the date of the provision.

(c) *"Substantially the same as" provisions*. Changes in wording of provisions prescribed for use on a "substantially the same as" basis are not considered deviations.

(End of provision)

552.252-6 Authorized Deviations in Clauses.

As prescribed in 552.107-70 (b), insert the following clause:

AUTHORIZED DEVIATIONS IN CLAUSES (NOV 2021) (DEVIATION FAR 52.252-6)

(a) *Deviations to FAR clauses*. This solicitation or contract identifies any authorized deviation to a Federal Acquisition Regulation (FAR) (48 CFR chapter 1) clause by—

(1) The addition of "(DEVIATION)" after the date of the FAR clause when an authorized deviation to a FAR clause is being used, and

(2) The addition of "(DEVIATION FAR (clause number))" after the date of the GSAR clause when a GSAR clause is being used in lieu of a FAR clause.

(b) *Deviations to GSAR clauses*. This solicitation or contract identifies any authorized deviation to a General Services Administration Acquisition Regulation (GSAR) (48 CFR chapter 5) clause by the addition of "(DEVIATION)" after the date of the clause.

(c) *"Substantially the same as" clauses*. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations.

(End of clause)

552.270 [Reserved]

552.270-1 Instructions to Offerors—Acquisition of Leasehold Interests in Real Property.

As prescribed in 570.702 , insert the following provision:

INSTRUCTIONS TO OFFERORS—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY (MAY 2025)

(a) *Definitions*. As used in this provision—

"Discussions" are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

"In writing, writing or written" means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

"Proposal modification" is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

"Proposal revision" is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

"Time," if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) *Amendments to solicitations*. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) *Submission, modification, revision, and withdrawal of proposals*. (1) Unless other methods (*e.g.*,electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages Offers must be:

(i) Submitted on the forms prescribed and furnished by the Government as a part of this solicitation or on copies of those forms, and

(ii) Signed. The person signing an offer must initial each erasure or change appearing on any offer form. If the offeror is a partnership, the names of the partners composing the firm must be included with the offer.

(2) *Late proposals and revisions*. (i) The Government will not consider any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers unless it is received before the Government makes award and it meets at least one of the following conditions:

(A) It was sent by registered or certified mail not later than the calendar day before the date specified for receipt of offers (e.g.,an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th).

(B) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation.

(C) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays.

(D) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry to the Government infrastructure not later than 5:00p.m. one working day prior to the date specified for receipt of proposals.

(E) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and that the Contracting Officer determines that accepting the late offer would not unduly delay the procurement.

(F) It is the only proposal received.

(ii) Any modification or revision of a proposal or response to request for information, including any final proposal revision, is subject to the same conditions as in paragraphs(c)(2)(i)(A) through (c)(2)(i)(E) of this provision.

(iii) The only acceptable evidence to establish the date of mailing of a late proposal or modification or revision sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the proposal, response to a request for information, or modification or revision shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(iv) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(v) The only acceptable evidence to establish the date of mailing of a late offer, modification or revision, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph(c)(2)(iii) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(vi) Notwithstanding paragraph(c)(2)(i) of this provision, a late modification or revision of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(vii) An offeror may withdraw its proposal by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile proposals, an offeror may withdraw its proposal via facsimile received at any time before award, subject to the conditions specified in the provision entitled "Facsimile Proposals." Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

(viii) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent

Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30p.m., local time, for the designated Government office.

(3) Any information given to a prospective offeror concerning this solicitation will be furnished promptly to all other prospective offerors, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offeror.

(4) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(5) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(6) The Government will construe an offer to be in full and complete compliance with this solicitation unless the offer describes any deviation in the offer.

(7) Offerors may submit proposals that depart from stated requirements. Such a proposal shall clearly identify why the acceptance of the proposal would be advantageous to the Government. The proposal must clearly identify and explicitly define any deviations from the terms and conditions of the solicitation, as well as the comparative advantage to the Government. The Government reserves the right to amend the solicitation to allow all offerors an opportunity to submit revised proposals based on the revised requirements.

(d) *Restriction on disclosure and use of data*. An offeror that includes in its proposal data that it does not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, must meet both of the following conditions:

(1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a lease is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets *[insert numbers or other identification of sheets]*.

(2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(e) *Lease award*. (1) The Government intends to award a lease resulting from this solicitation to the responsible offeror whose proposal represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a lease after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(5) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(6) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(7) The execution and delivery of the Lease contract by the Government establishes a valid award and contract.

(8) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection; and

(iii) A summary of the rationale for award.

(End of provision)

Alternate I (MAR 1998). As prescribed in 570.702 , substitute the following paragraph (c)(2)(i) for paragraph (c)(2)(i) of the basic provision:

(a) (i) Any offer received at the office designated in the solicitation after the exact time specified for receipt of final proposal revisions will not be considered unless it is received before award is made and it meets one of the following conditions—

Alternate II (MAR 1998). As prescribed in 570.702 , substitute the following paragraph (e)(4) for paragraph (e)(4) of the basic provision:

(4) The Government intends to evaluate proposals and award a lease without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

552.270-2 Historic Preference.

As prescribed in 570.702 , insert the following provision:

(a) The Government will give preference to offers of space in historic properties following this hierarchy of consideration:

(1) Historic properties within historic districts.

(2) Non-historic developed and non-historic undeveloped sites within historic districts.

(3) Historic properties outside of historic districts.

(b) *Definitions*. (1) "Determination of eligibility" means a decision by the Department of the Interior that a district, site, building, structure or object meets the National Register criteria for evaluation although the property is not formally listed in the National Register (36 CFR 60.3(c)).

(2) "Historic district" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history (36 CFR 60.3(d)). The historic district must be included in or be determined eligible for inclusion in the National Register of Historic Places.

(3) "Historic property" means any pre-historic or historic district, site, building, structure, or object included in or been determined eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior (36 CFR 800.16(l)).

(4) "National Register of Historic Places" means the National Register of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture that the Secretary of the Interior is authorized to expand and maintain under the National Historic Preservation Act (36 CFR 60.1).

(c) The offer of space must meet the terms and conditions of this solicitation. The Contracting Officer has discretion to accept alternatives to certain architectural characteristics and safety features defined elsewhere in this solicitation to maintain the historical integrity of an historic building, such as high ceilings and wooden floors, or to maintain the integrity of an historic district, such as setbacks, floor-to-ceiling heights, and location and appearance of parking.

(d) When award will be based on the lowest price technically acceptable source selection process, the Government will give a price evaluation preference, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government, to historic properties as follows:

(1) First to suitable historic properties within historic districts, a 10 percent price preference.

(2) If no suitable historic property within an historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(3) If no suitable non-historic developed or undeveloped site within an historic district is offered, or the 2.5 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(4) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

(e) When award will be based on the best value tradeoff source selection process, which permits tradeoffs among price and non-price factors, the Government will give a price evaluation preference, based on the total annual square foot (ANSI/BOMA Office Area) cost to the Government, to historic properties as follows:

(1) First to suitable historic properties within historic districts, a 10 percent price preference.

(2) If no suitable historic property within a historic district is offered or remains in the competition, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(3) If no suitable non-historic developed or undeveloped site within an historic district is offered or remains in the competition, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(4) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

(f) The Government will compute price evaluation preferences by reducing the price(s) of the offerors qualifying for a price evaluation preference by the applicable percentage provided in this provision. The price evaluation preference will be used for price evaluation purposes only. The Government will award a contract in the amount of the actual price(s) proposed by the successful offeror and accepted by the Government.

(g) To qualify for a price evaluation preference, offerors must provide satisfactory documentation in their offer that their property qualifies as one of the following:

(1) An historic property within an historic district.

(2) A non-historic developed or undeveloped site within an historic district.

(3) An historic property outside of an historic district.

(End of provision)

552.270-3 Parties to Execute Lease.

As prescribed in 570.702 , insert the following provision:

PARTIES TO EXECUTE LEASE (JUN 2011)

(a) If the Lessor is an individual, that individual shall sign the lease. A lease with an individual doing business as a firm shall be signed by that individual, and the signature shall be followed by the individual's typed, stamped, or printed name and the words, “an individual doing business as _____ [insert name of firm].”

(b) If the Lessor is a partnership, the lease must be signed in the partnership name, followed by the name of the legally authorized partner signing the same, and a copy of either the partnership agreement or current Certificate of Limited Partnership shall accompany the lease.

(c) If the Lessor is a corporation, the lease must be signed in the corporate name, followed by the signature and title of the officer or other person signing the lease on its behalf, duly attested, and, if requested by the Government, evidence of this authority to so act shall be furnished.

(d) If the Lessor is a joint venture, the lease must be signed by each participant in the joint venture in the manner prescribed in paragraphs (a) through (c) of this provision for each type of participant. When a corporation is participating in the joint venture, the corporation shall provide evidence that the corporation is authorized to participate in the joint venture.

(e) If the lease is executed by an attorney, agent, or trustee on behalf of the Lessor, an authenticated copy of the power of attorney, or other evidence to act on behalf of the Lessor, must accompany the lease.

(End of provision)

552.270-4 Definitions.

As prescribed in 570.703 , insert the following clause:

DEFINITIONS (SEP 1999)

The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:

(a) "ANSI/BOMA Office Area (ABOA)" means the area "where a tenant normally houses personnel, and/or furniture, for which a measurement is to be computed," as stated by the American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) publication, Z65.1-1996.

(b) "Commencement Date" means the first day of the term.

(c) "Contract" and "Contractor" means "Lease" and "Lessor," respectively.

(d) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(e) "Delivery Date" means the date specified in or determined pursuant to the provisions of this lease for delivery of the premises to the Government, improved in accordance with the provisions of this lease and substantially complete, as such date may be modified in accordance with the provisions of this lease.

(f) "Delivery Time" means the number of days provided by this lease for delivery of the premises to the Government, as such number may be modified in accordance with the provisions of this lease.

(g) "Excusable Delays" mean delays arising without the fault or negligence of Lessor and Lessor's subcontractors and suppliers at any tier, and shall include, without limitation:

(1) acts of God or of the public enemy,

(2) acts of the United States of America in either its sovereign or contractual capacity,

(3) acts of another contractor in the performance of a contract with the Government,

(4) fires,

(5) floods,

(6) epidemics,

(7) quarantine restrictions,

(8) strikes,

(9) freight embargoes,

(10) unusually severe weather, or

(11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.

(h) "Lessor" means the sub-lessor if this lease is a sublease.

(i) "Lessor shall provide" means the Lessor shall furnish and install at Lessor's expense.

(j) "Notice" means written notice sent by certified or registered mail, Express Mail or Comparable service, or delivered by hand. Notice shall be effective on the date delivery is accepted or refused.

(k) "Premises" means the space described in this lease.

(l) "Substantially complete" and "substantial completion" means that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment.

(m) "Work" means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

(End of clause)

552.270-5 Subletting and Assignment.

As prescribed in 570.703 , insert the following clause:

SUBLETTING AND ASSIGNMENT (SEP 1999)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations

to Lessor under this lease excepting only unpaid rent and other liabilities, if any, that have accrued to the date of said assignment. Any assignment shall be subject to prior written consent of Lessor, which shall not be unreasonably withheld.

(End of clause)

552.270-6 Maintenance of Building and Premises—Right of Entry.

As prescribed in 570.703 , insert the following clause:

MAINTENANCE OF BUILDING AND PREMISES—RIGHT OF ENTRY (SEP 1999)

Except in case of damage arising out of the willful act or negligence of a Government employee, Lessor shall maintain the premises, including the building and all equipment, fixtures, and appurtenances furnished by the lessor under this lease, in good repair and condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge.

(End of clause)

552.270-7 Fire and Casualty Damage.

As prescribed in 570.703 , insert the following clause:

FIRE AND CASUALTY DAMAGE (JUN 2011)

If the entire premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the premises untenantable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within 15calendar days after such determination; if so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

(End of clause)

552.270-8 Compliance with Applicable Law.

As prescribed in 570.703 , insert the following clause:

COMPLIANCE WITH APPLICABLE LAW (SEP 1999)

Lessor shall comply with all Federal, state and local laws applicable to the Lessor as owner or lessor, or both, of the building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. The Government will comply with all Federal, state and local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the Government. This lease shall be governed by Federal law.

(End of clause)

552.270-9 Inspection—Right of Entry.

As prescribed in 570.703 , insert the following clause:

INSPECTION—RIGHT OF ENTRY (SEP 1999)

(a) At any time and from time to time after receipt of an offer (until the same has been duly withdrawn or rejected), after acceptance thereof and during the term, the agents, employees and contractors of the Government may, upon reasonable prior notice to Offeror or Lessor, enter upon the offered premises or the premises, and all other areas of the building access to which is necessary to accomplish the purposes of entry, to determine the potential or actual compliance by the Offeror or Lessor with the requirements of the solicitation or this lease, which purposes shall include, but not be limited to:

(1) Inspecting, sampling and analyzing suspected asbestos-containing materials and air monitoring for asbestos fibers;

(2) Inspecting the heating, ventilation and air conditioning system, maintenance records, and mechanical rooms for the offered premises or the premises;

(3) Inspecting for any leaks, spills, or other potentially hazardous conditions which may involve tenant exposure to hazardous or toxic substances; and

(4) Inspecting for any current or past hazardous waste operations, to ensure that appropriate mitigative actions were taken to alleviate any environmentally unsound activities in accordance with Federal, State and local law.

(b) Nothing in this clause shall be construed to create a Government duty to inspect for toxic materials or to impose a higher standard of care on the Government than on other lessees. The purpose of this clause is to promote the ease with which the Government may inspect the building. Nothing in this clause shall act to relieve the Lessor of any duty to inspect or liability which might arise as a result of Lessor's failure to inspect for or correct a hazardous condition.

(End of clause)

552.270-10 Failure in Performance.

As prescribed in 570.703 , insert the following clause:

FAILURE IN PERFORMANCE (SEP 1999)

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this lease are interdependent. In the event of any failure by the

Lessor to provide any service, utility, maintenance, repair or replacement required under this lease the Government may, by contract or otherwise, perform the requirement and deduct from any payment or payments under this lease, then or thereafter due, the resulting cost to the Government, including all administrative costs. If the Government elects to perform any such requirement, the Government and each of its contractors shall be entitled to access to any and all areas of the building, access to which is necessary to perform any such requirement, and the Lessor shall afford and facilitate such access. Alternatively, the Government may deduct from any payment under this lease, then or thereafter due, an amount which reflects the reduced value of the contract requirement not performed. No deduction from rent pursuant to this clause shall constitute a default by the Government under this lease. These remedies are not exclusive and are in addition to any other remedies which may be available under this lease or at law.

(End of clause)

552.270-11 Successors Bound.

As prescribed in 570.703 , insert the following clause:

SUCCESSORS BOUND (SEP 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors and assigns.

(End of clause)

552.270-12 Alterations.

As prescribed in 570.703 , insert the following clause:

ALTERATIONS (SEP 1999)

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

(End of clause)

552.270-13 Proposals for Adjustment.

As prescribed in 570.703 , insert the following clause:

PROPOSALS FOR ADJUSTMENT (OCT 2016)

(a) The Contracting Officer may, from time to time during the term of this lease, require changes to be made in the work or services to be performed and in the terms or conditions of this lease. Such changes will be required under the Changes clause.

(b) If the Contracting Officer makes a change within the general scope of the lease, the Lessor shall submit, in a timely manner, an itemized cost proposal for the work to be accomplished or services to be performed when the cost exceeds $100,000. The proposal, including all subcontractor work, will contain at least the following detail—

(1) Material quantities and unit costs;
(2) Labor costs (identified with specific item or material to be placed or operation to be performed);
(3) Equipment costs;
(4) Worker's compensation and public liability insurance;
(5) Overhead;
(6) Profit; and
(7) Employment taxes under FICA and FUTA.

(c) The following Federal Acquisition Regulation (FAR) provisions also apply to all proposals exceeding $750,000 in cost —

(1) The Lessor shall provide cost or pricing data including subcontractor cost or pricing data (48CFR15.403-4); and
(2) The Lessor's representative, all Contractors, and subcontractors whose portion of the work exceeds $750,000 must sign and return the "Certificate of Current Cost or Pricing Data" (48CFR15.406-2).

(d) Lessors shall also refer to 48CFRPart31, Contract Cost Principles, for information on which costs are allowable, reasonable, and allocable in Government work.

(End of clause)

552.270-14 Changes.

As prescribed in 570.703 , insert the following clause:

CHANGES (JUN 2011)

(a) The Contracting Officer may at any time, by written order, make changes within the general scope of this lease in any one or more of the following:

(1) Specifications (including drawings and designs).
(2) Work or services.
(3) Facilities or space layout.

(4) Amount of space, provided the Lessor consents to the change.

(b) If any such change causes an increase or decrease in Lessor's cost of or the time required for performance under this lease, whether or not changed by the order, the Contracting Officer shall modify this lease to provide for one or more of the following:

(1) A modification of the delivery date.

(2) An equitable adjustment in the rental rate.

(3) A lump sum equitable adjustment.

(4) An equitable adjustment of the annual operating costs per ABOA square foot specified in this lease.

(c) The Lessor must assert its right to an adjustment under this clause within 30days from the date of receipt of the change order and must submit a proposal for adjustment. The Lessor's failure to assert its right for adjustment within the time frame specified herein shall be a waiver of the Lessor's right to an adjustment under this paragraph. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause excuses the lessor from proceeding with the change as directed.

(d) Absent such written change order, the Government is not liable to Lessor under this clause.

(End of clause)

552.270-15 Liquidated Damages.

As prescribed in 570.703 , insert the following clause:

LIQUIDATED DAMAGES (SEP 1999)

In case of failure on the part of the Lessor to complete the work within the time fixed in the lease contract or letter of award, the Lessor shall pay the Government as fixed and agreed liquidated damages, pursuant to this clause, the sum of $ _____ for each and every calendar day that the delivery is delayed beyond the date specified for delivery of all of the space ready for occupancy by the Government. This remedy is not exclusive and is in addition to any other remedies which may be available under this lease or at law.

(End of clause)

552.270-16 Adjustment for Vacant Premises.

As prescribed in 570.703 , insert the following clause:

ADJUSTMENT FOR VACANT PREMISES (JUN 2011)

(a) If the Government fails to occupy any portion of the leased premises or vacates the premises in whole or in part before the lease term expires, the rental rate will be reduced. The reduction shall occur after the Government gives 30 calendar days notice to the Lessor, and shall continue in effect until the Government occupies or reoccupies the vacant premises or the lease expires or is terminated.

(b) The rate will be reduced by that portion of the costs per ABOA square foot of operating expenses not required to maintain the space. In addition, at the first operating cost adjustment after the notice of reduction to the rent, the base cost of services subject to escalation will be reduced by said amount. In the event that the Government occupies or reoccupies the vacant premises on the lease anniversary date following the occupation of the vacant premises, the base cost of services subject to escalation will be increased by said amount.

(c) The reduction in operating costs shall be negotiated and stated in the lease.

(End of clause)

552.270-17 Delivery and Condition.

As prescribed in 570.703 , insert the following clause:

DELIVERY AND CONDITION (SEP 1999)

(a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit. The Government reserves the right to determine when the space is substantially complete.

(b) If the premises do not in every respect comply with the provisions of this lease the Contracting Officer may, in accordance with the Failure in Performance clause of this lease, elect to reduce the rent payments.

(End of clause)

552.270-18 Default in Delivery—Time Extensions.

As prescribed in 570.703 , insert the following clause:

DEFAULT IN DELIVERY—TIME EXTENSIONS (SEP 1999)

(a) With respect to Lessor's obligation to deliver the premises substantially complete by the delivery date, time is of the essence. If the Lessor fails to work diligently to ensure its substantial completion by the delivery date or fails to substantially complete the work by such date, the Government may by notice to the Lessor terminate this lease. Such termination is effective when received by Lessor. The Lessor and the Lessor's sureties, if any, are jointly and severally liable for any damages to the Government resulting from such termination, as provided in this clause. The Government is entitled to the following damages:

(1) The Government's aggregate rent, estimated real estate tax, and operating cost adjustments for the firm term and all option terms of its replacement lease or leases, in excess of the aggregate rent and estimated real estate tax and operating cost adjustments for the term. If the Government procures replacement premises for a term (including all option terms) in excess of this lease term, the Lessor is not liable for excess Government rent or adjustments during such excess lease term.

(2) All administrative and other costs the Government incurs in procuring a replacement lease or leases.

(3) Other, additional relief provided for in this lease, at law, or in equity.

(b) Damages to which the Government is entitled to under this clause are due and payable thirty (30) days following the date Lessor receives notice from the Contracting Officer specifying such damages.

(c) Delivery by Lessor of less than the minimum ABOA square footage required by this lease shall in no event be construed as substantial completion, except as the Contracting Officer permits.

(d) The Government shall not terminate this lease under this clause nor charge the Lessor with damages under this clause, if (1)the delay in substantially completing the work arises from excusable delays, and (2)the Lessor within 10days from the beginning of any such delay (unless extended in writing by the Contracting Officer) provides notice to the Contracting Officer of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If the facts warrant, the Contracting Officer shall extend the delivery date, to the extent of such delay at no additional costs to the Government. A time extension is the sole remedy of the Lessor.

(End of clause)

552.270-19 Progressive Occupancy.

As prescribed in 570.703 , insert the following clause:

PROGRESSIVE OCCUPANCY (SEP 1999)

The Government shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by the Government. The Government shall pay rent commencing with the first business day following substantial completion of the entire leased premise unless the Government has elected to occupy the leased premises incrementally. In case of incremental occupancy, the Government shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month in which

it was substantially complete. The commencement date of the firm lease term will be a composite determined from all rent commencement dates.

(End of clause)

552.270-20 Payment.

As prescribed in 570.703 , insert the following clause:

PAYMENT (SEP 1999)

(a) When space is offered and accepted, ABOA square footage delivered will be confirmed by either:

(1) The Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space conforms with such plans.

(2) A mutual on-site measurement of the space if the Contracting Officer determines it necessary.

(b) The Government will not pay for space in excess of the amount of ABOA square footage stated in the lease.

(c) If the amount of ABOA square footage delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of ABOA space delivered and the annual rental will be adjusted as follows:

ABOA square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is:

$$(1 + \text{CAF}) \times \text{Rate per RSF} = \text{Reduction in Annual Rent}$$

(End of clause)

552.270-21 Effect of Acceptance and Occupancy.

As prescribed in 570.703 , insert the following clause:

EFFECT OF ACCEPTANCE AND OCCUPANCY (SEP 1999)

Neither the Government's acceptance of the premises for occupancy, nor the Government's occupancy thereof, shall be construed as a waiver of any requirement of or right of the Government under this Lease, or as otherwise prejudicing the Government with respect to any such requirement or right.

(End of clause)

552.270-22 Default by Lessor During the Term.

As prescribed in 570.703 , insert the following clause:

DEFAULT BY LESSOR DURING THE TERM (SEP 1999)

(a) Each of the following shall constitute a default by Lessor under this lease:

(1) Failure to maintain, repair, operate or service the premises as and when specified in this lease, or failure to perform any other requirement of this lease as and when required provided any such failure shall remain uncured for a period of thirty (30) days next following Lessor's receipt of notice thereof from the Contracting Officer or an authorized representative.

(2) Repeated and unexcused failure by Lessor to comply with one or more requirements of this lease shall constitute a default notwithstanding that one or all such failures shall have been timely cured pursuant to this clause.

(b) If a default occurs, the Government may, by notice to Lessor, terminate this lease for default and if so terminated, the Government shall be entitled to the damages specified in the Default in Delivery-Time Extensions clause.

(End of clause)

552.270-23 Subordination, Nondisturbance and Attornment.

As prescribed in 570.703 , insert the following clause:

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT (SEP 1999)

(a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.

(b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate nondisturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.

(c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

(d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

(End of clause)

552.270-24 Statement of Lease.

As prescribed in 570.703 , insert the following clause:

STATEMENT OF LEASE (SEP 1999)

(a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1)the lease is in full force and effect; (2)the date to which the rent and other charges have been paid in advance, if any; and (3)whether any notice of default has been issued.

(b) Letters issued pursuant to this clause are subject to the following conditions:

(1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;

(2) That the Government shall not be held liable because of any defect in or condition of the premises or building;

(3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and

(4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable prepurchase and precommitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

(End of clause)

552.270-25 Substitution of Tenant Agency.

As prescribed in 570.703 , insert the following clause:

SUBSTITUTION OF TENANT AGENCY (SEP 1999)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

(End of clause)

552.270-26 No Waiver.

As prescribed in 570.703 , insert the following clause:

NO WAIVER (SEP 1999)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

(End of clause)

552.270-27 Integrated Agreement.

As prescribed in 570.703 , insert the following clause:

INTEGRATED AGREEMENT (SEP 1999)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

(End of clause)

552.270-28 Mutuality of Obligation.

As prescribed in 570.703 , insert the following clause:

MUTUALITY OF OBLIGATION (SEP 1999)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against

any payment or payments then or thereafter due the Lessor under this lease. No set off pursuant to this clause shall constitute a breach by the Government of this lease.

(End of clause)

552.270-29 Acceptance of Space.

As prescribed in 570.703 , insert the following clause:

ACCEPTANCE OF SPACE (JUN 2011)

(a) When the lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the lessor shall notify the Contracting Officer. The Contracting Officer or designated representative shall promptly inspect the space.

(b) The Government will accept the space and the lease term will begin after determining that the space is substantially complete and contains the required ABOA square footage as indicated in the solicitation paragraph, Amount and Type of Space.

(End of clause)

552.270-30 Price Adjustment for Illegal or Improper Activity.

As prescribed in 570.703 , insert the following clause:

PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JUN 2011)

(a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—

(1) Reduce the monthly rental under this lease by five percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover five percent of the rental already paid;

(2) Reduce payments for alterations not included in monthly rental payments by five percent of the amount of the alterations agreement; or

(3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.

(b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis thereof. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

(End of clause)

552.270-31 Prompt Payment.

As prescribed in 570.703 insert the following clause:

PROMPT PAYMENT (JUN 2011)

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) *Payment due date*. (1) Rental payments. Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.

(i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

(ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

(2) *Other payments*. The due date for making payments other than rent shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of the work or service. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) *Invoice and inspection requirements for payments other than rent*. (1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Lease number.

(iv) Government's order number or other authorization.

(v) Description, price, and quantity of work or services delivered.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(2) The Government will inspect and determine the acceptability of the work performed or services delivered within seven days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the seven day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the seven days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) *Interest Penalty*. (1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.

(2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the *Federal Register* semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.

(3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than one year. Interest penalties of less than $1.00 need not be paid.

(4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(d) *Overpayments*. If the Lessor becomes aware of a duplicate payment or that the Government has otherwise overpaid on a payment, the Contractor shall—

(1) Return the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(i) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected lease number;
(iii) Affected lease line item or subline item, if applicable; and
(iv) Lessor point of contact.
(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

Alternate I (Sep 1999).As prescribed in 570.703 , delete paragraphs (a)(2) and (b) of the basic clause, and redesignate the remaining paragraphs accordingly.

552.270-32 Covenant Against Contingent Fees.

As prescribed in 570.703 , insert the following clause:

COVENANT AGAINST CONTINGENT FEES (JUN 2011)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

(b) *Bona fide agency*, as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

Bona fide employee, as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

Contingent fee, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

Improper influence, as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

552.270-33 Foreign Ownership and Financing Representation for High-Security Leased Space.

As prescribed in 570.703 (c), insert the following clause:

FOREIGN OWNERSHIP AND FINANCING REPRESENTATION FOR HIGH-SECURITY LEASED SPACE (JUN 2021)

(a) *Definitions.* As used in this clause–

"Financing" means the process of raising or providing funds through debt or equity for purposes of meeting the requirements of the Lease, including, but not limited to, acquisition, maintenance, and construction of, or improvements to, the Property.

"Foreign entity" means a:

(i) Corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group that is headquartered or organized under the laws of a country that is not the United States or a state, local government, tribe, or territory within the United States; or

(ii) Government or governmental instrumentality that is not the United States Government.

"Foreign person" means an individual who is not:

(i) a United States citizen; or

(ii) an alien lawfully admitted for permanent residence in the United States.

"Highest-level owner" means the entity that owns or controls an immediate owner of the offeror or Lessor, or that owns or controls one or more entities that control an immediate owner of the offeror or Lessor. No entity owns or exercises control of the highest-level owner.

"Immediate owner" means an entity, other than the offeror or Lessor, that has direct control of the offeror or Lessor. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

"Unique entity identifier" means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) *Timing.* The Offeror or Lessor shall complete this representation when submitting a proposal. If the Offeror is the successful awardee, the Offeror (now Lessor) shall review, update, and provide this representation on an annual basis, reflecting all changes to immediate owner, highest-level owner and financing during the preceding 1-year period, starting one year from the Lease Term Effective Date through final payment of any contract. If the Lessor intends to transfer the lease to a successor in interest under the circumstances set forth in FAR 42.1204, the Lessor shall submit this representation to the Lease Contracting Officer with any request to novate the lease. The Offeror or Lessor is responsible for the currency, accuracy and completeness of the data disclosed, and for any liability resulting from the Government's reliance on inaccurate or incomplete data.

(c) *Immediate owner*.

(1) The Offeror or Lessor represents that it □ does or □ does not have an immediate owner.

(2) If the Offeror or Lessor indicates "does" in paragraph (c)(1) of this clause, then enter the following information for the immediate owner. If the offeror or Lessor has more than one immediate owner (*e.g.*, joint venture), then the offeror or Lessor shall provide the information for each entity.

Legal name (do not use a "doing business as" name)	
Unique entity identifier (if available)	

(3) If the Offeror or Lessor indicates "does" in paragraph (c)(1) of this clause, then complete this additional representation: Is the immediate owner a foreign entity?: □ Yes or □ No.

(4) If the Offeror or Lessor indicates "does" in paragraph (c)(1) of this clause, then complete this additional representation: Is the immediate owner a foreign person?: □ Yes or □ No.

(5) If the Offeror or Lessor indicates "Yes" in either paragraph (c)(3) or (4) of this clause, indicating that there is foreign ownership (as a foreign entity or foreign person), then enter the following information for the foreign owner (respond for each as applicable).

Physical address	
Country	

(d) *Highest-level owner*.

(1) The Offeror or Lessor represents that the immediate owner, if any, □ is or □ is not owned or controlled by another entity?

(2) If the Offeror or Lessor indicates "is" in paragraph (d)(1) of this clause, indicating that the immediate owner is owned or controlled by another entity, then enter the following information for the highest-level owner.

Legal name (do not use a "doing business as" name)	
Unique entity identifier (if available)	

(3) If the Offeror or Lessor indicates "is" in paragraph (d)(1) of this clause, then complete this additional representation: Is the highest-level owner a foreign entity?: □ Yes or □ No.

(4) If the Offeror or Lessor indicates "is" in paragraph (d)(1) of this clause, then complete this additional representation: Is the highest-level owner a foreign person?: □ Yes or □ No.

(5) If the Offeror or Lessor indicates "Yes" in either paragraph (d)(3) or (4) of this clause, indicating that there is foreign ownership (as a foreign entity or foreign person), then enter the following information for the foreign owner (respond for each as applicable)

Physical address	
Country	

(e) Financing entity.

(1) The Offeror or Lessor represents that the financing □ does or □ does not involve a foreign entity?

(2) The Offeror or Lessor represents that the financing □ does or □ does not involve a foreign person?

(3) If the Offeror or Lessor indicates "does" in either paragraph (e)(1) or (2) of this clause, indicating foreign financing (as a foreign entity or foreign person), then enter the following information for the foreign financing (respond for each as applicable).

Legal name (do not use a “doing business as” name)	
Unique entity identifier (if available)	

Physical address	
Country	

(End of clause)

552.270-34 Access Limitations for High-Security Leased Space.

As prescribed in 570.703 (d), insert the following clause:

ACCESS LIMITATIONS FOR HIGH-SECURITY LEASED SPACE (JUN 2021)

(a) The Lessor, including representatives of the Lessor’s property management company responsible for operation and maintenance of the leased space, shall not—

(1) Maintain access to the leased space; or

(2) Have access to the leased space without prior approval of the authorized Government representative.

(b) Access to the leased space or any property or information located within that Space will only be granted by the Government upon determining that such access is consistent with the Government’s mission and responsibilities.

(c) Written procedures governing access to the leased space in the event of emergencies shall be documented as part of the Government’s Occupant Emergency Plan, to be signed by both the Government and the Lessor.

(End of clause)

552.270-35 System for Award Management - Leasing.

As prescribed in 570.702 , insert the following provision:

SYSTEM FOR AWARD MANAGEMENT - LEASING (DEC 2024).

(a) *Definitions*. As used in this provision—

"Electronic Funds Transfer (EFT) indicator" means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

"Registered in the System for Award Management (SAM)" means that—

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into SAM;

(2) The Offeror has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in SAM;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record "Active".

"Unique entity identifier" means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) (1) An Offeror is required to be registered in SAM at time of award, and shall maintain registration in SAM during contract performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which the entity is commonly recognized.

(3) Company physical street address, city, state, and Zip Code.

(4) Company mailing address, city, state and Zip Code (if separate from physical).

(5) Company telephone number.

(6) Date the company was started.

(7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within the entity).

(d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of the solicitation. See https://www.sam.gov for information on registration.

(End of provision)

Alternate I (DEC 2024). As prescribed in 570.702 , substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b)(1) An Offeror is required to be registered in SAM as soon as possible. If registration is not possible prior to award, the Contractor shall be registered in SAM within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

Subpart 552.3 - Provision and Clause Matrixes

552.300 Scope of subpart.

This subpart contains a matrix listing the various types of contracts used by the GSA and the applicable GSAR provisions and clauses for each contract type. The types of contracts within the matrix are outlined in the key below.

For the clauses and provisions for leases, please refer to Subpart 570.7.

552.301 Matrix of Provisions and Clauses.

Format:	Applicability:
P or C = Provision or Clause	R = Required
IBR = Is Incorporation by Reference Authorized	A = Required when Applicable
UCF = Uniform Contract Format Section, When Applicable	O = Optional
	Y = Yes
	N = No
Type of Contract:	
FP SUP = Fixed-Price Supply	DDR = Dismantling, Demolition, or Removal of Improvements
CR SUP = Cost Reimbursement Supply	A&E = Architect-Engineering
FP R&D = Fixed-Price Research & Development	FAC = Facilities
CR R&D = Cost Reimbursement Research and	IND DEL = Indefinite Delivery
FP SVC = Fixed-Price Service	TRN = Transportation
CR SVC = Cost Reimbursement Service	SAP = Simplified Acquisition Threshold (excluding micro-purchases)
FP CON = Fixed-Price Construction	UTL SVC = Utility Services
CR CON = Cost Reimbursement Construction	CI = Commercial Items
T&M LH = Time & Material/Labor Hours	FSS = Federal Supply Schedule (*GSA Unique Program)
LMV = Leasing of Motor Vehicles	STOCK = Acquisitions for GSA Stock Program (*GSA Unique Program)
COM SVC = Communication Services	

552.301-1 GSAM/R Matrix.

			Format			Type of Contract																				
Number	Title	Prescription	P ORC	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	FSS*	STOCK*
552.203-71	Restriction on Advertising	503.570-2	C	Y	I	A	A			A	A	A	A	A		A	A	A	A	A	A		A	A		
552.204-9	Personal Identity Verification Requirements	504.1303	C	Y	I	A	A			A	A	A	A	A		A	A	A	A	A	A		A	A		
552.211-10	Commencement, Prosecution, and Completion of Work	511.404(b)	C	Y	I							R														
552.211-12	Liquidated Damages-Construction	511.503(a)	C	Y	I							A	A													
552.211-13	Time Extensions	511.503(b)	C	Y	I							A	A													
552.211-70	Substantial Completion	511.404(b)	C	Y	I							R								A						
552.211-72	Reference to Specifications in Drawings	511.204(a)	C	Y	I	A	A			A	A	A	A	A		A	A	A	A	A				A		
552.211-73	Marking	511.204(b)	C	Y	I	A	A													A				A		
552.211-75	Preservation, Packaging, and Packing	511.204(b)	C	Y	I	R	R													A				A		
552.211-75 Alt I	Preservation, Packaging, and Packing - Alternate I	511.204(b)	C	N	I																				A	
552.211-76	Charges for Packaging, Packing, and Marking	511.204(b)	C	N	I	A	A													A				A		
552.211-77	Packing List	511.204(c)	C	Y	I	R	R													A				A		
552.211-77 Alt I	Packing List - Alternate I	511.204(c)	C	N	I																				R	
552.211-79	Acceptable Age of Supplies	511.404(a)	C	N	I	A	A													A				A		
552.211-79 Alt I	Acceptable Age of Supplies - Alternate I	511.404(a)	C	N	I	A	A													A				A		
552.211-80	Age on Delivery	511.404(a)	C	Y	I	A	A													A				A		
552.211-81	Time of Shipment	511.404(a)	C	N	I	A	A																			A
552.211-81 Alt I	Time of Shipment - Alternate I	511.404(a)	C	N	I	A	A																			A
552.211-83	Availability for Inspection, Testing, and Shipment/ Delivery	511.404(a)	C	N	I	A	A													A				A		
552.211-83 Alt I	Availability for Inspection, Testing, and Shipment/ Delivery - Alternate I	511.404(a)	C	N	I																					A
552.211-85	Consistent Pack and Package Requirements	511.204(b)	C	Y	I	A	A													A				A		

			Format			Type of Contract																				
Number	Title	Prescription	P ORC	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	FSS*	STOCK*
552.211-86	Maximum Weight per Shipping Container	511.204(b)	C	Y	I	A	A													A				A		
552.211-87	Export Packing	511.204(b)	C	Y	I	A	A													A				A		
552.211-88	Vehicle Export Preparation	511.204(b)	C	Y	I	A	A													A				A		
552.211-89	Non-Manufactured Wood Packaging Material for Export	511.204(b)	C	Y	I	A	A													A				A		
552.211-90	Small Parts	511.204(b)	C	Y	I	A	A													A				A		
552.211-91	Vehicle Decals, Stickers, and Data Plates	511.204(b)	C	Y	I	A	A													A				A		
552.211-92	Radio Frequency Identification (RFID) Using Passive Tags	511.204(b)	C	Y	I	A	A													A				A		
552.211-94	Time of Delivery	511.404(a)	C	N	I	A	A																			A
552.212-4	Contract Terms and Conditions-Commercial Products and Commercial Services	512.301(b)	C	Y	I	A				A		A			A	A	A	A	A	A	A		A	R		
552.212-71	Contract Terms and Conditions Applicable to GSA Acquisitions of Commercial Products and Commercial Services	512.301(a)	C	N	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	R		
552.212-72	Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Products and Commercial Services	512.301(a)	C	N	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.214-70	"All or None" Bids	514.201-6	P	Y	M	A	A			A	A	A	A	A		A	A	A	A	A	A		A	A		
552.214-72	Bid Sample Requirements	514.202-4(a)	P	N	L	A				A					A					A						
552.215-70	Examination of Records by GSA	515.209-70(a)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.215-72	Price Adjustment—Failure to Provide Accurate Information	515.408(d)	C	Y	I																				A	
552.215-73	Notice	515.209-70(c)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.216-71	Economic Price Adjustment —Special Order Program Contracts	516.203-4(a)	C	N	I																					A
552.216-71 Alt I	Economic Price Adjustment —Special Order Program Contracts-Alternate I	516.203-4(a)	C	N	I																					A

			Format			Type of Contract																				
Number	Title	Prescription	P ORC	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	FSS*	STOCK*
552.216-71 Alt II	Economic Price Adjustment —Special Order Program Contracts-Alternate II	516.203-4(a)	C	N	I																					A
552.216-72	Placement of Orders	516.506(a)	C	N	I																					A
552.216-72 Alt I	Placement of Orders-Alternate I	516.506(a)	C	N	I																					A
552.216-73	Ordering Information	516.506(b)	P	N	L																					A
552.216-73 Alt I	Ordering Information-Alternate I	516.506(b)	P	N	L																					A
552.216-75	Transactional Data Reporting	516.506(c)	C	Y	I	A	A			A	A	A	A	A		A	A	A	A	A	A			A		
552.217-70	Evaluations of Options	517.208(a)	P	Y	M																					A
552.217-71	Notice Regarding Option(s)	517.208(b)	P	N	M	A	A			A	A	A	A	A		A	A	A	A	A	A			A		
552.219-70	Allocation of Orders—Partially Set-Aside Items	519.507	C	Y	I	A	A													A				A		
552.219-74	Section 8(a) Direct Award	519.870-2(a)	C	N	I	A	A			A	A	A	A					A								
552.223-70	Hazardous Substances	523.303(a)	C	Y	I	A	A													A				A		
552.223-71	Nonconforming Hazardous Materials	523.303(b)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.223-72	Hazardous Material Information	523.370	P	N	L	A	A													A				A		
552.223-73	Preservation, Packaging, Packing, Marking, and Labeling of Hazardous Materials (HAZMAT) for Shipments	523.303(c)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.227-70	Government Rights (Unlimited)	527.409(a)	C	Y	I													A								
552.227-71	Drawings and Other Data to Become Property of Government	527.409(b)	C	Y	I							A	A					A								
552.228-5	Government as Additional Insured	528.310	C	Y	I	A				A		A	A		A	A	A	A		A						
552.229-70	Federal, State, and Local Taxes	529.470(a)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.229-71	Federal Excise Tax—DC Government	529.470(b)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.232-1	Payments	532.111(a)	C	Y	I	A				A						A							A			
552.232-5	Payments under Fixed-Price Construction Contracts	532.111(b)	C	Y	I							R														

			Format			Type of Contract																				
Number	Title	Prescription	P ORC	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	FSS*	STOCK*
552.232-23	Assignments of Claims	532.806	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A			
552.232-25	Prompt Payment	532.908(b)	C	Y	I	A	A			A	A			A	A	A	A	A	A	A	A		A			
552.232-39	Unenforceability of Unauthorized Obligations	532.706-3(a)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A			
552.232-72	Final Payment Under Building Services Contracts	532.908(a)	C	Y	I					R	R								A							
552.232-77	Payment By Government Charge Card	532.7003	C	N	I	A	A			A	A									A						
552.232-78	Commercial Supplier Agreements—Unenforceable Clauses	532.706-3(b)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A			
552.236-6	Superintendence by the Contractor	536.506	C	Y	I							A					A									
552.236-11	Use and Possession Prior to Completion	536.511	C	Y	I							A					A									
552.236-15	Schedules for Construction Contracts	536.515	C	Y	F							A					A									
552.236-15 Alt I	Schedules for Construction Contracts-Alternate I	536.515(a)	C	N	F							A					A									
552.236-15 Alt II	Schedules for Construction Contracts-Alternate II	536.515(b)	C	N	F							A					A									
552.236-15 Alt III	Schedules for Construction Contracts-Alternate III	536.515(c)	C	N	F							A					A									
552.236-21	Specifications and Drawing for Construction	536.521	C	Y	I							A					A									
552.236-21 Alt I	Specifications and Drawing for Construction-Alternate I	536.521(a)	C	N	I							A					A									
552.236-21 Alt II	Specifications and Drawing for Construction-Alternate II	536.521(b)	C	N	I							A					A									
552.236-70	Authorities and Limitations	536.570	C	Y	I							R	R				R									
552.236-71	Contractor Responsibilities	536.571	C	Y	I							R	R				R									
552.236-71 Alt I	Contractor Responsibilities-Alternate I	536.571(a)	C	N	I							A	A				A									
552.236-71 Alt II	Contractor Responsibilities-Alternate II	536.571(a)	C	N	I							A	A				A									
552.236-72	Submittals	536.572	C	Y	I							R	R				R									
552.236-72 Alt I	Submittals-Alternate I	536.572	C	N	I							A	A				A									
552.236.73	Subcontracts	536.573	C	Y	I							R	R				R									

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552.236.74	Evaluation of Options	536.270-5(a)	C	Y	M							A														
552.236-75	Evaluation Exclusive of Options	536.270-5(b)	C	Y	M							A														
552.236-76	Basis of Award—Sealed Bidding Construction	536.270-5(c)	C	Y	M							A														
552.236-76 Alt I	Basis of Award—Sealed Bidding Construction-Alternate I	536.270-5(c)	C	N	M							A														
552.236-77	Government's Right to Exercise Options	536.270-5(d)	C	N	I							A	A													
552.236-79	Construction-Manager-As-Constructor	536.7107(a)	C	Y	I							A					A									
552.236-80	Accounting Records and Progress Payments	536.7107(b)	C	Y	I							A	A				A									
552.237-71	Qualifications of Employees	537.110(a)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A		
552.237-72	Prohibition Regarding "Quasi-Military Armed Forces"	537.110(b)	C	Y	I					A	A									A				A		
552.237-73	Restriction on Disclosure of Information	537.270	C	Y	I					A	A									A				A		
552.238-70	Cover Page for Worldwide Federal Supply Schedules	538.273(a)	C	N	L																				R	
552.238-70 Alt I	Cover Page for Worldwide Federal Supply Schedules-Alternate I	538.273(a)	C	N	L																				A	
552.238-71	Notice of Total Small Business Set-Aside	538.273(a)	C	N	L																				A	
552.238-72	Information Collection Requirements	538.273(a)	C	Y	L																				R	
552.238-73	Identification of Electronic Office Equipment Providing Accessibility for the Handicapped	538.273(b)	C	Y	K																				A	
552.238-74	Introduction of New Supplies/ Services (INSS)	538.273(b)	C	Y	L																				A	
552.238-75	Evaluation - Commercial Products and Commercial Services (Federal Supply Schedules)	538.273(c)	C	Y	M																				R	
552.238-76	Use of Non-Government Employees to Review Offers	538.273(c)	P	N	L																				A	
552.238-77	Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists	538.273(d)	C	Y	H																				R	

			Format			Type of Contract																				
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552.238-78	Identification of Products that Have Environmental Attributes	538.273(d)	C	Y	K																				A	
552.238-79	Cancellation	538.273(d)	C	Y	I																				R	
552.238-80	Industrial Funding Fee and Sales Reporting	538.273(d)	C	Y	H																				A	
552.238-80 Alt I	Industrial Funding Fee and Sales Reporting-Alternate I	538.273(d)	C	N	H																				A	
552.238-81	Price Reductions	538.273(d)	C	Y	H																				A	
552.238-81 Alt I	Price Reductions-Alternate I	538.273(d)	C	N	H																				A	
552.238-82	Modification (Federal Supply Schedule)	538.273(d)	C	Y	H																				R	
552.238-82 Alt I	Modification (Federal Supply Schedule)-Alternate I	538.273(d)	C	N	H																				A	
552.238-82 Alt II	Modification (Federal Supply Schedule)-Alternate II	538.273(d)	C	N	H																				A	
552.238-83	Examination of Records by GSA	538.273(d)	C	Y	I																				R	
552.238-84	Discounts for Prompt Payment	538.273(d)	C	Y	I																				R	
552.238-85	Contractor's Billing Responsibilities	538.273(d)	C	Y	I																				R	
552.238-86	Delivery Schedule	538.273(d)	C	N	F																				A	
552.238-87	Delivery Prices	538.273(d)	C	Y	F																				R	
552.238-88	GSA *Advantage!*®	538.273(d)	C	Y	H																				R	
552.238-89	Deliveries to the U.S. Postal Service	538.273(d)	C	Y	F																				A	
552.238-90	Characteristics of Electric Current	538.273(d)	C	Y	I																				A	
552.238-91	Marking and Documentation Requirements for Shipping	538.273(d)	C	N	D																				A	
552.238-92	Vendor Managed Inventory (VMI) Program	538.273(d)	C	Y	I																				A	
552.238-93	Order Acknowledgement	538.273(d)	C	Y	F																				A	
552.238-94	Accelerated Delivery Requirements	538.273(d)	C	Y	F																				A	
552.238-95	Separate Charge for Performance Oriented Packaging (POP)	538.273(d)	C	N	K																				A	

			Format			Type of Contract																				
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552.238-96	Separate Charge for Delivery within Consignee's Premises	538.273(d)	C	N	K																				A	
552.238-97	Parts and Services	538.273(d)	C	Y	I																				R	
552.238-98	Clauses for Overseas Coverage	538.273(d)	C	Y	I																				A	
552.238-99	Delivery Prices Overseas	538.273(d)	C	Y	I																				A	
552.238-100	Transshipments	538.273(d)	C	Y	D																				A	
552.238-101	Foreign Taxes and Duties	538.273(d)	C	Y	I																				A	
552.238-102	English Language and U.S. Dollar Requirements	538.273(d)	C	Y	I																				R	
552.238-103	Electronic Commerce	538.273(d)	C	Y	H																				A	
552.238-104	Dissemination of Information by Contractor	538.273(d)	C	Y	H																				R	
552.238-105	Deliveries Beyond the Contractual Period-Placing of Orders	538.273(d)	C	Y	F																				A	
552.238-106	Interpretation of Contract Requirements	538.273(d)	C	Y	D																				R	
552.238-107	Export Traffic Release (Supplies)	538.273(d)	C	Y	I																				A	
552.238-108	Spare Parts Kit	538.273(d)	C	N	I																				A	
552.238-109	Authentication Supplies and Services	538.273(d)	C	N	H																				A	
552.238-110	Commercial Satellite Communication (COMSATCOM) Services	538.273(d)	C	Y	H																				A	
552.238-111	Environmental Protection Agency Registration Requirement	538.273(d)	C	N	H																				A	
552.238-112	Definition (Federal Supply Schedules)–Non-Federal Entity	538.7004(a)	C	Y	H																				R	
552.238-113	Scope of Contract (Eligible Ordering Activities)	538.7004(b)	C	Y	H																				R	
552.238-114	Use of Federal Supply Schedule Contracts by Non-Federal Entities	538.7004(c)	C	Y	H																				R	
552.238-115	Special Ordering Procedures for the Acquisition of Order-Level Materials	538.7204(b)	C	Y	H																				A	

			Format			Type of Contract																				
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552.238-120	Economic Price Adjustment —Federal Supply Schedule Contracts	538.273(d)	C	N	I																				A	
552.241-70	Availability of Funds for the Next Fiscal Year or Quarter	541.501(a)	C	N	I																		R			
552.241-71	Disputes (Utility Contracts)	541.501(b)	C	Y	I																		A			
552.242-70	Status Report of Orders and Shipments	542.1107	C	Y	F															O						A
552.243-71	Equitable Adjustments	543.205	C	Y	I							A					A									
552.246-70	Source Inspection by Quality Approved Manufacturer	546.302-70	C	N	E	A				A					A						A						A
552.246-71	Source Inspection by Government	546.302-71	C	N	E	A				A					A						A						
552.246-72	Final Inspection and Tests	546.312	C	Y	E							A	A													
552.246-77	Additional Contract Warranty Provisions for Supplies of a Noncomplex Nature	546.710	C	Y	I	A									A					A						
552.246-78	Inspection at Destination	546.302-72	C	Y	E	A	A																			
552.252-5	Authorized Deviations in Provisions	552.107-70(a)	P	Y	K	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	
552.252-6	Authorized Deviations in Clauses	552.107-70(b)	C	Y	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	

552.301-2 Matrix Notes.

Matrix Notes:

1. The clauses and provisions prescribed for Federal Supply Schedule or Acquisitions for GSA Stock Program contracts do not have other types of contracts indicated. Those clauses and provisions may appear specifically in certain types of contracts within the Federal Supply Schedule or Acquisitions for GSA Stock Program contracts.

PART 553 - FORMS

Sec.

Subpart 553.1 - General

553.101 Requirements for use of forms.

553.102 Current editions.

553.170 Establishing and revising GSA Forms.

Subpart 553.3 - Forms Used in Acquisitions

553.300 Listing of Standard, Optional, and Agency forms.

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PART 553 - FORMS

Subpart 553.1 - General

553.101 Requirements for use of forms.

Parts 501–552 and 570 prescribe the requirements for use of GSA forms illustrated or referenced in this part. You may identify the prescription as follows:

(a) *Forms available on-line*. The list of forms available on-line in 553.370-1 identifies the basic prescription for each referenced form.

(b) *Illustrated forms*. The prescription for each illustrated form is identified by a cross-reference shown on the illustration. When a form is mentioned in more than one place in this regulation, the section referenced on the illustration is the section that contains the basic prescription.

553.102 Current editions.

You must use the current edition of the forms identified in subpart 553.3 unless otherwise authorized under this regulation.

553.170 Establishing and revising GSA Forms.

(a) GSA Order OGP 1824.1, GSA Forms Management Program Handbook, outlines requirements, responsibilities, standards, policies, and procedures for the GSA Forms Management Program, including the instruction that.

(i) If two or more GSA Services or Offices use an acquisition related GSA form, the Office of Acquisition Policy maintains the form.

(ii) If only one GSA Service or Office uses a GSA form or if the form is used for a contract type unique to one Service or Office (e.g.,construction contracts), that Service or Office is responsible for maintaining the form.

(b) To establish a new GSA Form, request changes to an existing form, or cancel an existing form, please reference the FAQs found at the GSA Forms library at https://www.gsa.gov/reference/forms.

(i) Any proposed new or revised GSA acquisition related form must be submitted to the Office of Acquisition Policy for review and concurrence.

Subpart 553.3 - Forms Used in Acquisitions

553.300 Listing of Standard, Optional, and Agency forms.

(a) This subpart lists standard and GSA forms prescribed or referenced in Parts 501–551 and 571.

(b) This subpart does not list standard forms listed in the FAR.

(c) Access the forms listed below on the GSA Forms Library at https://www.gsa.gov/forms.

Form No.	Title	Reference(s)
Standard Form 2	U.S. Government Lease for Real Property	570.801
Standard Form 33	Solicitation, Offer, and Award	514.201-2
GSA Form 184	Construction Progress Report	532.103
GSA Form 184A	Construction Progress Report (Work Branch Breakdown)	532.103
GSA Form 184B	Construction Progress Report (Change Order Breakdown)	532.103
GSA Form 300	Order for Supplies and Services	513.302-70(b), 505.503, 570.502-2
GSA Form 300A	Order for Supplies and Services (Continuation)	513.302-70(a)(3)

Form No.	Title	Reference(s)
GSA Form 308	Notice of Inspection	552.246-71
GSA Form 527	Contractor's Qualifications and Financial Information	509.105-1(a)
GSA Form 533-1	Administrative Difference Statement for Temporary Duty Travel	532.7204
GSA Form 1142	Release of Claims	532.905-70(b), 552.232-5, 552.232-72
GSA Form 1217	Lessor's Annual Cost Statement	570.802(d)
GSA Form 1364	Proposal to Lease Space	570.802(c)
Standard Form 1402	Certificate of Appointment	
Standard Form 1409	Abstract of Offers	514.403
Standard Form 1447	Solicitation/Contract	514.201-2
Standard Form 1449	Solicitation/Contract/Order for Commercial Products and Commercial Services	514.201-2
GSA Form 1458	Motor Vehicle Maintenance, Repair and Service Purchase Order	513.302-70(c)
GSA Form 1535	Recommendation for Award	514.404-2, 514.408-70
GSA Form 1535-A	Recommendation for Award(s) Continuation	514.408-70
GSA Form 1611	Application for Shipping Instructions and Notice of Availability	552.238-107
GSA Form 1649	Notification of Federal Supply Schedule Improvement	538.273, 538.7201
GSA Form 1678	Status Report of Orders and Shipments	552.242-70(a), 552.242-70
GSA Form 1766	Structured Approach Profit/Fee Objective	515.404-70(e)
GSA Form 2010	Small Purchase Tabulation Source List/Abstract	513.106-3
GSA Form 2419	Certification of Progress Payments Under Fixed-Price Construction Contracts	552.232-5
GSA Form 2437	Findings of Fact for Contract Modification	543.204
GSA Form 2689	Small Business Analysis Record	519.202-1, 519.502-70
GSA Form 3186	Order for Supplies or Services	513.302-70(c)
GSA Form 3186B	Order for Supplies or Services (EDI)	513.302-70(c)
GSA Form 3409	Personal Qualifications Statement for Appointment as Contracting Officer	(e)(1)
GSA Form 3410	Request for Appointment	
GSA Form 3471	Abstract of Offers	514.403(c)
GSA Form 3521	Blanket Purchase Agreement	513.303-3

Form No.	Title	Reference(s)
GSA Form 3626	U.S. Government Lease for Real Property (Short Form)	570.801,570.802(a)
GSA Form 8002A	Motor Vehicle Requisition Status	513.302-70(d)
GSA Form 8002B	Motor Vehicle Delivery Order (Incomplete)	513.302-70(d)

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SUBCHAPTER I - SPECIAL CONTRACTING PROGRAMS

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PART 570 - ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

Subpart 570.1 - General

570.101 Applicability.

(a) This part applies to acquisitions of leasehold interests in real property except:

(1) Leasehold interests acquired by the power of eminent domain or by donation.

(2) Acquisition of leasehold interests in bare or unimproved land.

(b) In addition, the GSAR rules in the table below apply. Other provisions of 48 CFR Chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-referenced in this part 570.

GSAR Rules Applicable to Acquisitions of Leasehold Interests in Real Property			
501	515.209-70	522.805	536.271
502	515.305	522.807	537.2
503	517.202	538.270	539
509.4	517.207	533	552
514.407	519.7		553

(c) The following GSAM provisions apply to acquisitions of leasehold interests in real property. These are in addition to the GSAR requirements identified in 570.101.

GSAM Applicable to Acquisitions of Leasehold Interests in Real Property

501	506	522.13	532.6
503	507	522.14	532.8
504.2	519.3	523.4	532.9
504.8	519.6	530	532.11
504.9	519.7	532.1	533
504.71		532.4	537.2
505			

(d) The FAR does not apply to leasehold acquisitions of real property. Where referenced in this part, FAR provisions have been adopted based on a statutory requirement applicable to such lease acquisitions or as a matter of policy, including, but not limited to "Federal agency procurement" as defined at FAR 3.104.

570.102 Definitions.

"ANSI/BOMA Office Area (ABOA)" means the area "where a tenant normally houses personnel, and/or furniture, for which a measurement is to be computed," as stated by the American National Standards Institute/Building Owners and Managers Association(ANSI/BOMA)publication Z65.1-1996.

"Contract" means lease.

"Contractor" means lessor.

"Landlord" or "lessor" means any individual, firm, partnership, trust, association, State or local government, or other legal entity that leases real property to the Government.

"Lease" or "leasehold interest in real property" means a conveyance to the Government of the right of exclusive possession of real property for a definite period of time by a landlord. It may include operational services provided by the landlord.

"Lease acquisition" means the acquiring by lease of an interest in improved real property for use by the Government, whether the space already exists or must be constructed.

"Lease extension" means extension of the expiration date of a lease to provide for continued occupancy on a short term basis.

"Lease renewal" (option) means the right, but not the obligation of the Government to continue a lease upon specified terms and conditions, including lease term and rent.

"Lessee" or "tenant" means the United States of America.

"Operational services" means services that support use of a leased property, such as heating, ventilation, air conditioning, utilities, and custodial services.

"Simplified lease acquisition procedures" mean the procedures for awarding leases at or below the simplified lease acquisition threshold.

"Simplified lease acquisition threshold" means the simplified acquisition threshold (see FAR 2.101), when applied to the average annual amount of rent for the term of the lease, including option periods and excluding the cost of services.

"Small business" means a concern including affiliates, which is organized for profit, is independently-owned and operated, is not dominant in the field of leasing commercial real estate, and that has annual average gross receipts for the preceding three fiscal years which are less than the size standard established by the Small Business Administration pursuant to 13 CFR 121. The size standards may be found at https://www.sba.gov/content/small-business-size-standards. For most lease procurements, the NAICS code is 531190.

"Solicitation for Offers (SFO)" means a request for proposals.

"Substantially as follows" or "substantially the same as," when used in prescribing a provision or clause, means that the contracting officer may prepare and use a variation of that provision or clause to accommodate requirements peculiar to an individual acquisition. The variation must include the salient features of the FAR or GSAR provision or clause. It must also be consistent with the intent, principle, and substance of the FAR or GSAR provision or clause and related coverage on the subject matter.

"Succeeding lease" means a lease whose effective date immediately follows the expiration date of an existing lease for space in the same building.

"Superseding lease" means a lease that replaces an existing lease, prior to the scheduled expiration of the existing lease term.

570.103 Authority to lease.

(a) The Administrator of General Services is authorized by 40 U.S.C. §585 to enter into a lease agreement for the accommodation of a Federal agency in a building (or improvement) which is in existence or being erected by the lessor for the accommodation of the Federal agency. The lease agreement may not bind the Government for more than 20 years.

(b) The contracting officer has exclusive authority to enter into and administer leases on the Government's behalf to the extent provided in the certificate of appointment as a contracting officer. Nothing in this paragraph is intended to limit the contracting officer's authority to designate, consistent with statute and regulation, a contracting officer's representative.

570.104 Competition.

Unless the contracting officer uses the simplified procedures in subpart 570.2, the competition requirements of FAR part 6 apply to acquisition of leasehold interests in real property.

570.105 Methods of contracting.

570.105-1 Contracting by negotiation.

Contracting by negotiation is appropriate for acquiring space in a building through a lease contract. The contracting officer will usually need to conduct discussions with offerors about their proposals and consider factors other than price in making the award.

570.105-2 Criteria for the use of two-phase design-build.

The contracting officer may use the two-phase design-build selection procedures in 41 U.S.C. 253m for lease construction projects. This includes lease construction projects with options to purchase the real property leased. Use the procedures in 41 U.S.C. 253m and FAR 36.3 when the conditions in (a) and (b) below are met:

(a) The contracting officer anticipates that the lease will involve the design and construction of a building, facility, or work for lease to the Government.

(b) The contracting officer determines whether the procedures are appropriate for entering into a lease construction contract based on the following:

(1) The contracting officer expects to receive three or more offers.
(2) Offerors will need to perform design work before developing a price.
(3) Offerors will incur a substantial amount of expense in preparing offers.
(4) The contracting officer considers criteria such as the following:
(i) The extent to which the project requirements have been adequately defined.
(ii) The time constraints for delivery of the project.
(iii) The capability and experience of potential contractors.
(iv) The past performance of potential contractors.
(v) The suitability of the project for use of the two-phase selection procedures.
(vi) The capability of the agency to manage the two-phase selection process.
(vii) Other criteria established by the HCA.

(c) See 570.305 for additional information.

570.106 Advertising, publicizing, and notifications to Congress.

(a) If a proposed acquisition is not exempt under FAR 5.202 or GSAR 570.106(e), and is for a leasehold interest in real property estimated to exceed 10,000 square feet, then the contracting officer must publicize the proposed acquisition in the System for Award Management Contract Opportunities at https://www.sam.gov in its place.

(b) For leasehold acquisitions where the solicitation requires the construction of a new building on a preselected site, the contracting officer, in accordance with the timeframes established in FAR 5.203, must publicize the proposed acquisition in the GPE regardless of size or value.

(c) For leasehold acquisitions not subject to a square foot measurement (*e.g.*, antennas, piers, parking), contracting officers must publicize the proposed acquisition in the GPE when the contract action is expected to exceed $25,000, unless an exception under FAR 5.202 applies.

(d) Other than as identified in paragraphs (a) through (c) of this section, the contracting officer need not publicize the proposed acquisition of a leasehold interest in real property, including expansion requests within the scope of a lease (see 570.403), lease extensions under the conditions defined in 570.405, and building alterations within the scope of a lease (see 570.5). However, the contracting officer may publicize proposed lease acquisitions of any dollar value or square footage in the GPE or local newspapers if, in the opinion of the contracting officer, doing so is necessary to promote competition.

(e) The contracting officer may issue a consolidated advertisement for multiple leasing actions.

(f) Except as otherwise provided in paragraph (b) of this section, where publicizing of the proposed acquisition is required, the notice shall be published in the GPE not less than three calendar days prior to issuance of a solicitation.

(g) Except as otherwise provided in paragraph (b) of this section and as set forth in paragraphs (g) and (h) of this section, the contracting officer shall provide offerors not less than 20 calendar days between solicitation issuance and the date established for receipt of initial offers.

(1) For a proposed acquisition using simplified lease acquisition procedures (see 570.2), consider the individual acquisition and establish a reasonable response time.

(2) In cases of unusual and compelling urgency (FAR 6.303-2), provide as much time as reasonably possible under the circumstances and document the contract file.

(h) If a Member of Congress has specifically requested notification of award, the contracting officer must provide award notifications in accordance with 505.303.

570.106-1 Synopsis of lease awards.

(a) Except for lease actions described in paragraph (b) of this subsection, contracting officers must synopsize in the GPE awards exceeding $25,000 total contract value that are likely to result in the award of any subcontracts. However, the dollar threshold is not a prohibition against publicizing an award of a smaller amount when publicizing would be advantageous to industry or to the Government.

(b) A notice is not required if—

(1) The notice would disclose the occupant agency's needs and the disclosure of such needs would compromise the national security; or

(2) The lease—

(i) Is for an amount not greater than the simplified lease acquisition threshold;

(ii) Was made through a means where access to the notice of proposed lease action was provided through the GPE; and

(iii) Permitted the public to respond to the solicitation electronically.

(3) Justifications for other than full and open competition must be posted in the GPE. Information exempt from public disclosure must be redacted.

570.107 Oral presentations.

The contracting officer may require oral presentations for acquisitions of leasehold interests in real property. Follow the procedures in FAR 15.102.

570.108 Responsibility determination.

(a) Determine that the prospective awardee is responsible with respect to the lease under consideration. The standards in FAR 9.104 apply. As part of the determination that a prospective contractor is otherwise qualified and eligible for award, review exclusions in the System for Award Management (SAM).

(b) The contracting officer's signature on the contract is deemed an affirmative determination.

(c) If the contracting officer finds an offeror nonresponsible, sign and place in the contract file a determination of nonresponsibility. State the basis for the determination.

(d) If the contracting officer finds a small business concern nonresponsible, the procedures at FAR 19.6 apply. Place all documents and reports supporting a determination of responsibility or nonresponsibility in the lease file.

570.109 Certifications.

Before awarding a lease, review applicable representations and certifications for compliance with statute and regulations.

570.110 Cost or pricing data and information other than cost or pricing data.

(a) The policies and procedures of FAR 15.403 apply to lease contract actions.

(b) FAR 15.403-1 defines exceptions to and waivers for submitting cost or pricing data. Most leasing actions will have adequate price competition. For price analysis of offered rental rates, the contracting officer may use a market survey, an appraisal conducted using accepted real property appraisal procedures to establish a market price for comparison, or other relevant market research data. For price analysis of offered tenant improvement costs, obtain two offers or cost and pricing data.

(c) In exceptional cases, the requirement for submission of certified cost or pricing data may be waived under FAR15.403-1(c)(4).

(d) If cost or pricing data are required, follow the procedures in FAR15.403-4 and 15.406-2.

570.111 Inspection and acceptance.

Before accepting the space, the contracting officer must verify that the space complies with the Government's requirements and specifications and document this in an inspection report. The inspection and acceptance document must contain the square footage accepted and the acceptance date. Include the inspection and acceptance in the contract file. When space such as piers, antennas, and parking are leased, square footage may not be the manner in which the amount of space is specified; therefore, document that the space complies with the Government's written requirements.

570.112 Awards to Federal employees.

If the contracting officer receives an offer from an officer or employee of the Government, follow the procedures in FAR 3.6.

570.113 Disclosure of mistakes after award.

If a mistake in a lessor's offer is discovered after award, the contracting officer should process it substantially in accordance with FAR 14.407-4 and GSAM 514.407-4.

570.114 Protests.

FAR 33.1 and 533.1 apply to protests of lease acquisitions.

570.115 Novation and change of ownership.

In the event of a transfer of ownership of the leased premises or a change in the lessor's legal name, FAR 42.12 applies.

570.116 Contract format.

The uniform contract format is not required for leases of real property.

570.117 Sustainable requirements for lease acquisition.

Contracting officers must include sustainable design requirements appropriate for the type of leasing action in the solicitation. Contracting officers can find solicitation requirements and instructions at https://www.gsa.gov/real-estate/realestate-services/leasing/leasing-policy under the "Sustainability Policies" tab and within the applicable Leasing Desk Guide chapter to assist them in complying with GSA's sustainable requirements.

570.117-1 Federal leadership in environmental, energy, and economic performance.

In order to create a clean energy economy that will increase our Nation's prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment, GSA will accomplish all sustainability requirements described in 570.117-2 that apply to lease acquisitions.

570.117-2 Guiding principles for federal leadership in high performance and sustainable buildings.

GSA is committed to the design, construction, operation, and maintenance of leased space that complies with all of the following Guiding Principles:

(a) Employ Integrated Design Principles;
(b) Optimize Energy Performance;
(c) Protect and Conserve Water;
(d) Enhance Indoor Environmental Quality; and
(e) Reduce the Environmental Impact of Building Materials.

570.118 Foreign Ownership Disclosure.

If a foreign ownership disclosure is made pursuant to clause 552.270-33:

(a) The contracting officer shall notify the Federal tenant for the leased space in writing:

(1) If the disclosure is made during the lease acquisition process, the contracting officer shall notify the Federal tenant prior to lease award.

(2) If the disclosure is made concurrent with a request for novation, the contracting officer shall notify the Federal tenant prior to executing the novation.

(3) If the disclosure is made concurrent with a renewal option or extension, the contracting officer shall notify the Federal tenant prior to executing the renewal option or extension.

(b) The contracting officer shall coordinate with the Federal tenant regarding security concerns and any necessary mitigation measures.

Subpart 570.2 - Simplified Lease Acquisition Procedures

570.201 Purpose.

This subpart prescribes simplified procedures for small leases. These procedures reduce administrative costs, while improving efficiency and economy, when acquiring small leasehold interests in real property.

570.202 Policy.

Use simplified lease acquisition procedures to the maximum extent practicable for actions at or below the simplified lease acquisition threshold.

570.203 Procedures.

570.203-1 Market survey.

Conduct a market survey to identify potential sources. Use information available in GSA or from other sources to identify locations that will meet the Government's requirements.

570.203-2 Competition.

(a) To the maximum extent practicable, the contracting officer must solicit at least three sources to promote competition. If there are repeated requirements for space in the same market, invite two sources, if practicable, that are not included in the most recent solicitation to submit offers.

(b) If the contracting officer solicits only one source, document the file to explain the lack of competition.

570.203-3 Soliciting offers.

(a) The contracting officer must solicit offers by providing each prospective offeror a proposed short form lease GSA Form 3626 or SFO. The short form lease or SFO must:

(1) Describe the Government's requirements.

(2) List all award factors, including price or cost, and any significant subfactors that the contracting officer will consider in awarding the lease.

(3) State the relative importance of the evaluation factors and subfactors.

(4) State whether all evaluation factors other than cost or price, when combined, are either:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(5) Include either in full text or by reference, applicable FAR provisions and contract clauses required by 570.6.

(6) Include sustainable design requirements.

(b) As necessary, review with prospective offerors the Government's requirements, pricing matters, evaluation procedures and submission of offers.

570.203-4 Negotiation, evaluation, and award.

(a) If the contracting officer needs to conduct negotiations, use the procedures in 570.307.

(b) Evaluate offers in accordance with the solicitation. Evaluate prices and document the lease file to demonstrate whether the proposed contract prices are fair and reasonable. See 570.110.

(c) If the total price, including options, exceeds the amount established by FAR 15.403-4, consider whether the contracting officer needs cost and pricing data to determine that the price is fair and reasonable. In most cases, the exceptions at FAR 15.403-1 will apply.

(d) Regardless of the process used, the contracting officer must determine whether the price is fair and reasonable.

(e) If the total contract value of the lease, including options, will exceed the amount established by FAR 19.702(a), the proposed awardee must provide an acceptable small business subcontracting plan. This requirement does not apply if the proposed awardee is a small business concern.

(f) Make award to the responsible offeror whose proposal represents the best value to the Government considering price and other factors included in the solicitation.

Subpart 570.3 - Acquisition Procedures for Leasehold Interests in Real Property Over the Simplified Lease Acquisition Threshold

570.301 Market survey.

Conduct a market survey to identify potential sources. Use information available in GSA or from other sources to identify locations capable of meeting the Government's requirements.

570.302 Description of requirements.

(a) The description of requirements depends on the nature of the space the agency needs and the market available to satisfy that need.

(b) The description of requirements must include all the following:

(1) A statement of the purpose of the lease.

(2) Functional, performance, or physical requirements.

(3) Any special requirements.

(4) The delivery schedule.

(c) The description must promote full and open competition. Include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs or as authorized by law.

570.303 Solicitation for offers.

570.303-1 Preparing the SFO.

The SFO forms the basis for the lease negotiation process and becomes part of the lease. Document each SFO in writing or electronically. Include the information necessary to enable prospective offerors to prepare proposals. Each SFO, at a minimum, must:

(a) Describe the Government's requirements.

(b) State the method the Government will use to measure space.

(c) Explain how to structure offers.

(d) Specify a date, time, and place for submission of offers.

(e) Explain how the Government will evaluate offers.

(f) Describe the source selection procedures the Government will use.

(g) Include a statement outlining the information the Government may disclose in debriefings.

(h) Include appropriate forms prescribed in 570.8.

(i) Include sustainable design requirements.

570.303-2 Issuing the SFO.

Release the SFO to all prospective offerors at the same time. The SFO may be released electronically.

570.303-3 Late offers, modifications of offers, and withdrawals of offers.

Follow the procedures in FAR 15.208.

570.303-4 Changes to SFOs.

(a) If the Government's requirements change, either before or after receipt of proposals, issue an amendment. Document the amendment using the same method as for the SFO, written or electronic.

(b) If time is critical, you may provide information on SFO amendments orally.

(1) Make a record of the information provided.

(2) Provide, or attempt to provide, the notice to all offerors or prospective offerors on the same day.

(3) Promptly confirm the information provided orally in a written amendment.

(c) Distribute an amendment as follows:

(1) If before the proposal due date, send the amendment to all prospective offerors who were sent a copy of the SFO.

(2) If after proposal receipt, send the amendment to each offeror who submitted a proposal.

(d) If an amendment is so substantial that it requires a complete revision of the SFO, cancel the SFO, readvertise if required by 570.106, and issue a new SFO.

(e) If there are changes to the Government's requirements for amount of space, delineated area, occupancy date, and/or other major aspects of the requirements, the contracting officer shall consider whether there is a need to readvertise, and to document the file accordingly.

570.304 General source selection procedures.

(a) These procedures apply to acquisitions of leasehold interests except if the contracting officer uses one of the following:

(1) Simplified lease acquisition procedures authorized by 570.2.
(2) Two-phase design-build selection procedures authorized by 570.105-2.

(b) The contracting officer is designated as the source selection official unless the HCA appoints another individual for a particular leasing action or group of leasing actions.

(c) In a trade off procurement, the contracting officer must include price or cost to the Government, past performance, the planned participation of small disadvantaged business concerns in performance of the contract, and other factors as required by FAR 15.304 as evaluation factors. The contracting officer may include other evaluation factors as needed.

(d) The evaluation factors and significant subfactors must comply with FAR 15.304 and either one of the following:
(1) FAR 15.101-1 if the contracting officer will use the tradeoff process.
(2) FAR 15.101-2 if the contracting officer will use the lowest price technically acceptable source selection process.

570.305 Two-phase design-build selection procedures.

(a) These procedures apply to acquisitions of leasehold interests if the contracting officer uses the two-phase design-build selection procedures authorized by 570.105-2. Follow FAR 36.3.

(b) The SFO must include all the following information:
(1) The Scope of Work.
(2) The evaluation factors and subfactors to be used in evaluating phase-one proposals and their relative importance.
(3) The maximum number of offerors to be selected to submit competitive proposals in phase-two.
(4) The evaluation factors, including cost or price, and subfactors to be used in evaluating phase-two proposals and selecting the successful offeror, and their relative importance.

(c) The following procedures apply to phase-one evaluation factors:
(1) Phase one factors include:
(i) Specialized experience and technical competence.
(ii) Capability to perform.
(iii) Past performance of the offeror's team (including architect-engineer and construction members of the team).
(iv) The planned participation of small disadvantaged business concerns in performance of the contract.
(v) Other appropriate factors, such as site or location.
(2) The contracting officer shall not require offerors to submit detailed design information or cost or price information in phase one. The contracting officer shall not use cost related or price related evaluation factors.

(d) The contracting officer shall set the maximum number of offerors to be selected for phase-two to not exceed five unless the contracting officer determines that a number greater than five is both:
(1) In the government's interest.
(2) Consistent with the purpose and objectives of the two-phase selection process.

(e) In phase-two, require detailed technical and price proposals. Evaluate the proposals using the procedures in 570.306.

570.306 Evaluating offers.

(a) The contracting officer must evaluate offers solely in accordance with the factors and subfactors stated in the SFO.

(b) Evaluate prices and document the lease file to demonstrate that the proposed contract price is fair and reasonable. The contracting officer must review the elements of the offeror's proposed rent to analyze whether the individual elements are realistic and reflect the offeror's clear understanding of the work to be performed. The contracting officer must discuss any inconsistencies with the offeror. If the offeror refuses to support or make any changes to the rent proposed, consider the risk to the Government prior to making any lease award.

(c) Evaluate past performance on previous lease projects in accordance with 515.305 and FAR 15.305(a)(2). Obtain information through:
(1) Questionnaires tailored to the circumstances of the acquisition;
(2) Interviews with program managers or contracting officers;
(3) Other sources; or
(4) Past performance information collected under FAR 42.15 and available through the Contractor Performance Assessment Reporting System at https://www.cpars.gov/, or successor system.

(d) The contracting officer may obtain information to evaluate an offeror's past performance on subcontracting plan goals and monetary targets from the following sources:
(1) The Small Business Administration;

(2) Information on prior contracts from contracting officers and administrative contracting officers;
(3) Offeror's references; and
(4) Past performance information collected under FAR 42.15 and available through PPIRS.
(e) Document the evaluation of award factors other than price listed in the solicitation. The file must include the basis for evaluation, an analysis of each offer, and a summary of findings.
(f) Also see the requirements in 570.108, 570.109 and 570.111.

570.307 Negotiations.
(a) Follow the procedures in FAR 15.306 and 15.307 for exchanges (including clarifications, communications, negotiations, discussions, and revisions).
(b) Place a written record of all exchanges in the lease file.
(c) Provide prompt written notice to any offeror excluded from the competitive range or otherwise eliminated from the competition in accordance with FAR 15.503(a).

570.308 Award.
(a) Make award to the responsible offeror whose proposal represents the best value after evaluation in accordance with the factors and subfactors in the SFO.
(b) Make award in writing and in the timeframe specified in the SFO.
(1) If the contracting officer cannot make an award in that time, request in writing from each offeror an extension of the acceptance period through a specific date.
(2) If time is critical, the contracting officer may request the extensions orally. The contracting officer must make a record of the request and confirm it promptly in writing.
(c) Notify unsuccessful offerors in writing or electronically in accordance with FAR 15.501 and 15.503(b).
(d) The source selection authority may reject all proposals received in response to an SFO, if doing so is in the best interest of the Government.

570.309 Debriefings.
The procedures of FAR 15.505 and 15.506 apply to leasing actions.

Subpart 570.4 - Special Aspects of Contracting for Continued Space Requirements

570.401 Renewal options.
(a) *Exercise of options*. Before exercising an option to renew, follow the procedures in 517.207 Exercise of options.. The contract must first provide the right to renew the lease. If a renewal option was not evaluated as part of the lease at award, then the addition of a renewal option during the lease term must satisfy the requirements of GSAM 506 regarding full and open competition.
(b) *Market information review*. Before exercising an option to renew a lease, review current market information to determine that the rental rate in the option is fair and reasonable.

570.402 Succeeding leases.

570.402-1 General.
(a) If a succeeding lease for the continued occupancy of space in a building does not exceed the simplified lease acquisition threshold, the contracting officer may use the simplified procedures in 570.2. Explain the absence of competition in the contract file.
(b) If a succeeding lease will exceed the simplified lease acquisition threshold, the contracting officer may enter into the lease under either of the following conditions:
(1) The contracting officer does not identify any potential acceptable locations.
(2) The contracting officer identifies potential acceptable locations, but a cost-benefit analysis indicates that award to an offeror other than the present lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government cannot expect to recover such costs through competition.

570.402-2 Publicizing/Advertising.

The contracting officer must publish a notice if required by 570.106. The notice should:

(a) Indicate that the Government's lease is expiring.

(b) Describe the requirements in terms of type and quantity of space.

(c) Indicate that the Government is interested in considering alternative space if economically advantageous, and that otherwise the Government intends to pursue a sole source acquisition.

(d) Advise prospective offerors that the Government will consider the cost of moving, alterations, etc., when deciding whether it should relocate.

(e) Provide a contact person for those interested in providing space to the Government.

570.402-3 Market survey.

Conduct a market survey following 570.301.

570.402-4 No potential acceptable locations.

If the contracting officer does not identify any potential acceptable locations through the advertisement or the market survey, prepare a written justification to negotiate directly with the present lessor. Fully document the efforts to locate alternative sources. Prepare the justification and obtain approval following FAR 6.3 and 506.3.

570.402-5 Potential acceptable locations.

If the contracting officer identifies potential acceptable locations through the advertisement or market survey, conduct a cost-benefit analysis following the procedures 570.402-6. Based on the results of the cost-benefit analysis, take appropriate action as follows:

(a) If the cost-benefit analysis indicates that the Government will recover relocation costs and duplication of costs through competition, develop an SFO and negotiate with all interested parties following 570.3.

(b) If the cost-benefit analysis indicates that the Government cannot expect to recover relocation costs and duplication of costs through competition, prepare a justification for approval in accordance with FAR 6.3 and 506.3. Explain both:

(1) How the contracting officer performed the cost-benefit analysis.

(2) That the cost-benefit analysis indicates that award to any other offeror will likely result in substantial costs to the Government that the Government cannot expect to recover through competition.

570.402-6 Cost-benefit analysis.

(a) The cost-benefit analysis must consider all the following:

(1) The prices of other potentially available properties.

(2) Relocation costs, including estimated costs for moving, telecommunications, and alterations, amortized over the firm term of the lease.

(3) Duplication of costs to the Government.

(4) Other appropriate considerations.

(b) Establish the prices for other potentially available properties by requesting each prospective offeror to provide an informational quotation for standard space for comparison purposes.

(1) Adjust the prices quoted for standard space for any special requirements.

(2) You do not need a formal SFO to obtain the informational quotation. However, you must provide a general description of the Government’s needs.

(3) If you obtain oral quotations, document the following information, as a minimum:

(i) Name and address of the firm solicited.

(ii) Name of the firm’s representative providing the quote.

(iii) Price(s) quoted.

(iv) Description of the space and services for which the quote is provided.

(v) Name of the Government employee soliciting the quotation.

(vi) Date of the conversation.

(4) Compare the informational quotations to the present lessor’s price, adjusted to reflect the anticipated price for a succeeding lease.

570.403 Expansion requests.

(a) If the expansion space is in the general scope of the lease, the contracting officer may acquire the space through a modification without further justification under FAR 6.3.

(b) If the expansion space needed is outside the general scope of the lease, the contracting officer must determine whether it is more prudent to provide the expansion space by supplemental agreement to the existing lease or to meet the expansion requirement and existing tenancy to the requirement by competitive means.

(1) Conduct a market survey to determine the availability of suitable alternative locations.

(2) If you identify alternate locations that can satisfy the total requirement, perform a cost-benefit analysis to determine whether it is in the Government's best interest to relocate. Consider, as appropriate:

(i) The cost of the alternate space compared to the cost of expanding at the existing location.

(ii) The cost of moving.

(iii) The cost of duplicating existing improvements.

(iv) The cost of the unexpired portion of the firm lease term. If a termination is possible, use the actual cost of such an action.

(v) The cost of disruption to the agency's operation.

(c) If the contracting officer determines not to use competitive procedures and the expansion space is outside the general scope of the lease:

(1) If the estimated value of the acquisition does not exceed the simplified lease acquisition threshold, document the file as required by 570.203-2.

(2) If the estimated value of the acquisition exceeds the simplified lease acquisition threshold, prepare a justification for approval under FAR 6.3 and 506.3.

570.404 Superseding leases.

(a) Consider executing a superseding lease to replace an existing lease when the Government needs numerous or detailed modifications to the space that would cause complications or substantially change the present lease or when market conditions warrant renegotiation of an existing lease.

(b) If the value of the superseding lease exceeds the simplified lease acquisition threshold, the justification and approval requirements in FAR 6.3 and 506.3 apply. If the cost does not exceed the simplified lease acquisition threshold, the contracting officer may use the simplified procedures in 570.2 and explain the absence of competition in the file.

570.405 Lease extensions.

(a) This subsection applies to extension of the term of a lease to provide for continued occupancy on a short term basis.

(b) If the value of a lease extension will exceed the simplified lease acquisition threshold, the justification and approval requirements in FAR 6.3 and 506.3 apply. For extensions that will not exceed the simplified lease acquisition threshold, the contracting officer may use the simplified procedures in 570.2 and explain the absence of competition in the file.

(c) FAR 6.302-1 permits contracting without providing for full and open competition when the property or services needed by the agency are available from only one responsible source and no other type of property or services will satisfy the needs of the agency. This authority may apply to lease extensions in situations such as, but not limited to, the following:

(1) The agency occupying the leased space is scheduled to move into other Federally controlled space, but encounters unexpected delays in preparing the new space for occupancy.

(2) The Government encounters unexpected delays outside of its control in acquiring replacement space.

(3) The Government is consolidating various agencies and the contracting officer needs to extend the terms of some leases to establish a common expiration date.

(4) The agency occupying the space has encountered delays in planning for a potential relocation to other federally controlled space due to documented organizational, financial, or other uncertainties.

Subpart 570.5 - Special Aspects of Contracting for Lease Alterations

570.501 General.

(a) The procedures in 570.502 apply to alterations acquired directly from a lessor by modification or supplemental lease agreement. This is allowed if the following conditions are met:

(1) The alterations fall within the scope of the lease. Consider whether the work can be regarded fairly and reasonably as part of the original lease requirement.

(2) The lessor is willing to perform the proposed alterations at a fair and reasonable price.

(3) It is in the Government's interest to acquire the alterations from the lessor.

(b) If proposed alterations are outside the scope of the existing lease, decide whether to acquire the alterations through either:

(1) A supplemental lease agreement, as justified and approved under 570.502-1.

(2) Government performance or a separate contract. The lease must first provide the Government with the right to perform alterations to the leased space.

570.502 Alterations by the lessor.

570.502-1 Justification and approval requirements.

If the proposed alterations are outside the general scope of the lease and the contracting officer plans to acquire them from the lessor without competition, the following justification and approval requirements apply:

(a) If the alteration project will not exceed the micro-purchase threshold identified in FAR 2.101(b), no justification and approval is required.

(b) If the alteration project will exceed the micro-purchase threshold identified in FAR 2.101(b), but not the simplified lease acquisition threshold, the contracting officer may use simplified acquisition procedures and explain the absence of competition in the file.

(c) If the alteration project will exceed the simplified lease acquisition threshold, the justification and approval requirements in FAR 6.3 and 506.3 apply.

570.502-2 Procedures.

(a) *Scope of work*. The contracting officer must prepare a scope of work for each alteration project.

(b) *Independent Government estimate*. The contracting officer must obtain an independent Government estimate for each alteration project, including changes to existing alteration agreements with the lessor.

(c) *Request for proposal*.

(1) The contracting officer must provide the scope of work to the lessor, including any plans and specifications, and request a proposal.

(2) The contracting officer must request sufficient cost or price information to permit a price analysis.

(d) *Audits*. If the contracting officer requires cost or pricing data and the alteration project will exceed the threshold identified in FAR 15.403-4, request an audit.

(e) *Proposal evaluation*.The contracting officer must—

(1) Determine if the proposal meets the Government's requirements.

(2) Analyze price or cost information. At a minimum, compare the proposed cost to the independent estimate and, if applicable, any audit results received.

(3) Analyze profit following FAR 15.404-4.

(4) Document the analysis under this paragraph and the resulting negotiation objectives.

(f) *Price negotiations*. The contracting officer must—

(1) Exercise sound judgment. Make reasonable compromises as necessary.

(2) Provide the lessor with the greatest incentive for efficient and economical performance.

(3) Document negotiations in the contract file, including discussions regarding restoration cost or waiver of restoration cost.

(g) *Order*. For modifications not exceeding the simplified acquisition threshold, lease contracting officers may delegate alteration contracting authority to a warranted contracting officer's representative in GSA or the tenant agency. Alterations awards must reference the lease number. If the modification does not exceed the simplified acquisition threshold, the contracting officer may use GSA Form 300, Order for Supplies or Services. Reference the lease on the form.

(h) *Inspection and payment*. The contracting officer must not make final payment for alterations until the work is:

(1) Inspected by a qualified Government employee or independent Government contractor.

(2) Confirmed as completed in a satisfactory manner.

570.503 Alterations by the Government or through a separate contract.

If the Government chooses to exercise its right to make the alterations rather than contracting directly with the lessor, the Government may either:

(a) Have Federal employees perform the work.

(b) Contract out the work using standard contracting procedures that apply to a construction contract performed on Federal property. If the Government decides to contract for the work, invite the lessor, as well as all other prospective contractors, to submit offers for the project.

Subpart 570.6 - Contracting for Overtime Services and Utilities in Leases

570.601 General.

(a) Lease tenant agencies may need overtime services and utilities on a regular or intermittent basis. Lease contracting officers may negotiate overtime rates for services and utilities and include those rates in leases where a need is projected. Only lease contracting officers may negotiate overtime rates.

(b) An independent government estimate is required in support of the negotiated rate.

(c) *Order*. To order overtime services and utilities, if the order does not exceed the simplified acquisition threshold, a warranted contracting officer's representative, in GSA or the tenant agency, may place an order. The order must reference the lease number.

(d) *Payment*. Do not make final payment for services and utilities until confirmed as delivered in a satisfactory manner.

Subpart 570.7 - Solicitation Provisions and Contract Clauses

570.701 FAR provisions and clauses.

Insert provisions or clauses substantially the same as the FAR provisions and clauses listed below.

If . . .	Then include . . .
(a) the estimated value of the acquisition exceeds the micro-purchase threshold identified in FAR 2.101	52.204-3 Taxpayer Identification. 52.204-6 Unique Entity Identifier. 52.219-1 Small Business Program Representations. 52.219-28 Post-Award Small Business Program Rerepresentation (use if lease term exceeds five years). 52.232-23 Assignment of Claims. 52.232-33 Payment by Electronic Funds Transfer-System for Award Management. 52.233-1 Disputes.
(b) the estimated value of the acquisition exceeds $10,000	52.222-21 Prohibition of Segregated Facilities. 52.222-22 Previous Contracts and Compliance Reports. 52.222-25 Affirmative Action Compliance. 52.222-26 Equal Opportunity. 52.222-35 Equal Opportunity for Veterans. 52.222-36 Equal Opportunity for Workers with Disabilities. 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era.
(c) the estimated value of the acquisition is $25,000 or more (not applicable to individuals)	52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards.
(d) the estimated value of the acquisition exceeds the threshold identified in FAR 9.409(b)	52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
(e) the estimated value of the acquisition exceeds $100,000	52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

If . . .	Then include . . .
(f) the estimated value of the acquisition exceeds the simplified lease acquisition threshold	52.203-2 Certificate of Independent Price Determination. 52.203-7 Anti-Kickback Procedures. 52.204-5 Women-Owned Business (Other than Small Business). 52.209-5 Certification Regarding Responsibility Matters. 52.215-2 Audit and Records-Negotiation. 52.219-8 Utilization of Small Business Concerns. 52.223-6 Drug-Free Workplace. 52.233-2 Service of Protest.
(g) the estimated value of the acquisition exceeds the threshold identified in FAR 19.708(b)	52.219-9 Small Business Subcontracting Plan. 52.219-16 Liquidated Damages-Subcontracting Plan.
(h) the value of the contract is expected to exceed $5 million and the performance period is 120 days or more	52.203-13 Contractor Code of Business Ethics and Conduct. 52.203-14 Display of Hotline Poster(s).
(i) the estimated value of the acquisition exceeds $10 million	52.222-24 Pre-award On-site Equal Opportunity Compliance Evaluation.
(j) the contracting officer requires cost or pricing data for work or services exceeding the threshold identified in FAR 15.403-4	52.215-10 Price Reduction for Defective Certified Cost or Pricing Data. 52.215-12 Subcontractor Certified Cost or Pricing Data.
(k) the contracting officer authorizes submission of facsimile proposals	52.215-5 Facsimile Proposals.

570.702 GSAR solicitation provisions.

Each SFO must include provisions substantially the same as the following, unless the contracting officer determines that the provision is not appropriate. The contracting officer shall document the file with the basis for omitting or substantially changing a provision.

552.270-1	Instructions to Offerors—Acquisition of Leasehold Interests in Real Property. Use the provision with its Alternate I if it is advantageous to the Government to allow offers to be submitted up to the exact time specified for award. Use the provision with its Alternate II if the Government intends to award without discussions.
552.270-2	Historic Preference.
552.270-3	Parties to Execute Lease.
552.270-35	System for Award Management - Leasing (in lieu of FAR 52.204-7). Use Alternate I of the provision for procurements not providing for full and open competition due to unusual or compelling urgency.

570.703 GSAR contract clauses.

(a) Insert clauses substantially the same as the following in solicitations and contracts for leasehold interests in real property that exceed the simplified lease acquisition threshold, unless the contracting officer determines that a clause is not appropriate. The contracting officer shall document the file with the basis for omitting or substantially changing a clause. A deviation is not required under section 570.704 to determine that a clause in this section is not appropriate. The following

clauses may be inserted in solicitations and contracts for leasehold interests in real property at or below the simplified lease acquisition threshold.

552.215-70	Examination of Records by GSA.
552.270-4	Definitions. Insert this clause if including the clause at 552.270-28.
552.270-5	Subletting and Assignment.
552.270-6	Maintenance of Building and Premises—Right of Entry.
552.270-7	Fire and Casualty Damage.
552.270-8	Compliance with Applicable Law.
552.270-9	Inspection—Right of Entry.
552.270-10	Failure in Performance.
552.270-11	Successors Bound.
552.270-12	Alterations.
552.270-13	Proposals for Adjustment.
552.270-14	Changes.
552.270-15	Liquidated Damages. Insert this clause in solicitations and contracts if you have a critical requirement to meet the delivery date and you cannot establish an actual cost for the loss to the Government resulting from late delivery.
552.270-16	Adjustment for Vacant Premises.
552.270-17	Delivery and Condition.
552.270-18	Default in Delivery—Time Extensions.
552.270-19	Progressive Occupancy.
552.270-20	Payment.
552.270-21	Effect of Acceptance and Occupancy.
552.270-22	Default by Lessor During the Term.
552.270-23	Subordination, Nondisturbance and Attornment.
552.270-24	Statement of Lease.
552.270-25	Substitution of Tenant Agency.
552.270-26	No Waiver.
552.270-27	Integrated Agreement.
552.270-28	Mutuality of Obligation.
552.270-29	Acceptance of Space.

(b) Insert the following clauses in solicitations and contracts for leasehold interests in real property:

552.270-30	Price Adjustment for Illegal Improper Activity.
552.270-31	Prompt Payment.
552.270-32	Covenant Against Contingent Fees.

(c) Insert the representation clause at 552.270-33, Foreign Ownership and Financing Representation for High-Security Leased Space, in novations, solicitations and contracts for leased space that:

(1) Will be occupied by Federal employees for nonmilitary activities; and

(2) Has a facility security level of III, IV, or V.

(d) Insert the clause at 552.270-34 Access Limitations for High-Security Leased Space, in novations, solicitations and contracts for leased space that:

(1) Will be occupied by Federal employees for nonmilitary activities; and

(2) Has a facility security level of III, IV, or V.

570.704 Deviations to provisions and clauses.

(a) The contracting officer needs a deviation approved under Subpart to omit any required provision or clause.

(b) The contracting officer also needs an approved deviation to modify the language of a provision or clause mandated by statute *(e.g.*, FAR 52.215-2, Audit and Records—Negotiation). The authorizing statute must allow for a waiver.

(c) Certain clauses required by non-GSA regulations require approval of the issuing agency before the contracting officer can delete or modify them. For example, FARs 52.222-26, Equal Opportunity; 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era; and 52.222-36, Affirmative Action for Workers with Disabilities, require the approval of the Department of Labor's Office of Federal Contract Compliance Programs before they can be deleted from or modified in the SFO or lease.

Subpart 570.8 - Forms

570.801 Standard forms.

Use Standard Form 2, U.S. Government Lease for Real Property, to award leases unless the contracting officer uses GSA Form 3626 (see 570.802).

In accordance with 519.705-6(b), lessors shall use the Standard Form (SF) 294 instead of the ISR to report subcontracting achievements. Use of the SF-294 by contractors to report cumulative subcontracting achievement under a GSA contract should be rare. SSRs are still required in the eSRS system.

570.802 GSA forms.

(a) The contracting officer may use GSA Form 3626, U.S. Government Lease for Real Property (Short Form), to award leases if using the simplified leasing procedures in Subpart 570.2 or if the contracting officer determines it advantageous to use the form.

(b) The contracting officer may use GSA Form 1364, Proposal To Lease Space, to obtain offers from prospective offerors.

(c) The contracting officer may use GSA Form 1217, Lessor's Annual Cost Statement, to obtain pricing information regarding offered services and lease commissions.

PART 571 [RESERVED]

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