

GSA ORDER

Subject: General Services Administration Acquisition Regulations; GSAR Case 2022-G514, Standardizing Federal Supply Schedule Clause and Provision Prescriptions

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Regulations (GSAR) to clarify Federal Supply Schedule (FSS) policies for delegated agencies.
2. Background. GSA has authority over the FSS Program and may delegate other agencies to administer their own Schedule program. For example, the Department of Veteran Affairs (VA) is currently delegated responsibility for Schedules for medical diagnostic equipment, laboratory support, and sterilization equipment.

From internal agency feedback, as well as routine review of the GSAR, GSA determined that additional guidance was needed to clarify expectations when GSAR language applies to other agencies that have delegated authority to administer FSS programs, such as the VA.

This change provides streamlined language for the prescription of FSS clauses as well as the coordination steps that need to be taken if an outside agency wants to deviate from those clauses.

3. Effective date. February 12, 2024.
4. Explanation of changes. This amendment includes regulatory changes. For full text changes of the amendment see Attachment A, GSAR Case 2022-G514, Standardizing Federal Supply Schedule Clause and Provision Prescriptions, Text Line-In/Line-Out.

This amendment revises the language of the following GSAR subparts, changes summarized below:

- 538.000 - Added new section to describe the scope of the part, and describe delegation authority for the Federal Supply Schedules.
- 538.001 - Added new section to describe actions to take if there is a clause that does not apply to an agency with delegated FSS authority.
- 538.201 - Added new section to describe coordination requirements for agencies with delegated FSS authority.
- 538.273 - Revised prescription language for the FSS clauses and provisions that follow.

5. Point of contact. For clarification of content, contact Adina Torberntsson, GSA Acquisition Policy Division, at gsarpolicy@gsa.gov.

Jeffrey Koses
Senior Procurement Executive
Office of Acquisition Policy
Office of Government-wide Policy

GSAR Case 2022-G514

GSAM/GSAR Text, Line-In/Line-Out

GSAM Baseline: Change 174 effective 02/12/2024

- Additions to baseline made by rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by rule are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding and following sections
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a subsection

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).]

* * * * *

538.273 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) ~~As prescribed in this paragraph,~~ **[I]**insert the following provisions in the beginning of FSS solicitations:

(1) 552.238-70, Cover Page for Worldwide Federal Supply Schedules. Use in all FSS solicitations. ~~Use Alternate I for single award Federal Supply Schedules.~~

(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.

(b) ~~As prescribed in this paragraph,~~ **[I]**insert the following clause[s] and provision[s] **in FSS solicitations and contracts]** as an addendum to **[FAR] 52.212-1, Instructions to Offerors—Commercial Items [Instructions to Offerors - Commercial Products and Commercial Services]:**

(1) 552.238-73, Identification of Electronic Office Equipment Providing Accessibility for **[Individuals with Disabilities]**. ~~the Handicapped. Use only in FSS solicitations for electronic office equipment.~~

(2) 552.238-74, Introduction of New Supplies/Services (INSS). ~~Use only in FSS~~ **[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) ~~As prescribed in this paragraph, insert~~ **[I]**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 Schedule). ~~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) ~~As prescribed in this paragraph, i~~**[I]** insert the following clauses **[in FSS solicitations and contracts]** as an addendum to Clause **[FAR]** 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. ~~Use in all FSS solicitations and contracts.~~

(2) 552.238-78, Identification of Products that have Environmental Attributes. Use only in ~~FSS~~ solicitations and contracts that contemplate products with environmental attributes.

(3) 552.238-79, Cancellation. ~~Use in all FSS solicitations and contracts.~~

(4) 552.238-80, Industrial Funding Fee and Sales Reporting. Use Alternate I for **[FSS]**~~Federal Supply Schedules~~ with Transactional Data Reporting requirements.

(5) 552.238-81, Price Reductions. Use Alternate I for **[FSS]**~~Federal Supply Schedules~~ with Transactional Data Reporting requirements.

(6) 552.238-82, Modifications (Federal Supply Schedules). ~~Use in all FSS solicitations and contracts.~~

(i)~~Use Alternate I for [FSS]Federal Supply Schedules that only accept eMod.~~

(ii)~~Use Alternate II for [FSS]Federal Supply Schedules with Transactional Data Reporting requirements.~~

(7) 552.238-83, Examination of Records by GSA (Federal Supply Schedules).~~Use in all FSS solicitations and contracts. With the Senior Procurement's Executive approval, the contracting officer may modify this clause to provide for post-award access to and the right to examine records to verify that the pre-award/modification pricing, sales or other data related to the supplies or services offered under the contract which formed the basis for the award/modification was accurate, current, and complete. The following procedures apply:~~

~~_____ (i)Such a modification of the clause must provide for the right of access to expire 2 years after award or modification.~~

~~_____ (ii)Before modifying the clause, the contracting officer must make a determination that absent such access there is a likelihood of significant harm to the Government and submit it to the Senior Procurement Executive for approval.~~

~~_____ (iii) The determinations under paragraph (9)(ii) must be made on a schedule-by schedule basis.~~

(8) 552.238-84, Discounts for Prompt Payment. ~~Use in all FSS solicitations and contracts.~~

(9) 552.238-85, Contractor's Billing Responsibilities. ~~Use in all FSS solicitations and contracts.~~

(10) 552.238-86, Delivery Schedule. Use only in FSS solicitations and contracts for supplies[.]

(11) 552.238-87, Delivery Prices. ~~Use in all FSS solicitations and contracts.~~

(12) 552.238-88, GSA Advantage!®. ~~Use in all FSS solicitations and contracts except~~ **[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 in FSS solicitations and ~~contracts~~ 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 in FSS solicitations and ~~contracts~~ when the supply of equipment which uses electrical current is contemplated.

(15) 552.238-91, Marking and Documentation Requirements for Shipping. Use only in ~~FSS solicitations and contracts~~ 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 in ~~FSS solicitations and contracts~~ for supplies when a VMI Program is contemplated.

(17) 552.238-93, Order Acknowledgement. Use only in ~~FSS solicitations and contracts~~ for supplies.

(18) 552.238-94, Accelerated Delivery Requirements. Use only in ~~FSS solicitations and contracts~~ for supplies.

(19) 552.238-95, Separate Charge for Performance Oriented Packaging (POP). Use only in ~~FSS solicitations and contracts~~ for products defined as hazardous under Federal Standard No. 313.

(20) 552.238-96, Separate Charge for Delivery within Consignee's Premises. Use only in ~~FSS solicitations and contracts~~ for supplies when allowing offerors to propose separate charges for deliveries within the consignee's premises.

(21) 552.238-97, Parts and Service. ~~Use in all FSS solicitations and contracts.~~

(22) 552.238-98, Clauses for Overseas Coverage. Use only in ~~FSS solicitations and contracts~~ 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 following clauses and provisions 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]**
~~Per Shipment.~~

(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]

~~(ix) [(x) FAR 52.247-34 FOB 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 in ~~FSS solicitations and contracts~~ when overseas acquisition is contemplated.

(24) 552.238-100, Transshipments. Use only in ~~FSS solicitations and contracts~~ when overseas acquisition is contemplated.

(25) 552.238-101, Foreign Taxes and Duties. Use only in ~~FSS solicitations and contracts~~ when overseas acquisition is contemplated.

(26) 552.238-102, English Language and U.S. Dollar Requirements. ~~Use in all FSS solicitations and contracts.~~

(27) 552.238-103, Electronic Commerce. ~~Use in all FSS solicitations and contracts~~ except the **[This clause is not required for]** Department of Veterans Affairs Federal Supply Schedules.

(28) 552.238-104, Dissemination of Information by Contractor. ~~Use in all FSS solicitations and contracts.~~

(29) 552.238-105, Deliveries Beyond the Contractual Period-Placing of Orders. ~~Use only in FSS solicitations and contracts for supplies.~~

(30) 552.238-106, Interpretation of Contract Requirements. ~~Use in all FSS solicitations and contracts.~~

(31)-552.238-107, Export Traffic Release (Supplies). Use in FSS solicitations and contracts for supplies, **[This clause is not required for]** ~~except~~ vehicles.

(32) 552.238-108, Spare Parts Kit. ~~Use only in FSS solicitations and contracts 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]** ~~in Federal Supply Schedule 70 solicitations only, and only contracts awarded Special Item Numbers (SINs) associated with the Homeland Security Presidential Directive 12 (HSPD-12).~~

(34)-552.238-110, Commercial Satellite Communication (COMSATCOM) Services. ~~Use only in FSS solicitations and contracts for~~ COMSATCOM services.

(35) 552.238-111, Environmental Protection Agency Registration Requirement. ~~Use only in FSS solicitations and contracts for supplies when~~ products may require registration with the Environmental Protection Agency.

(36) 552.238-116, Option to Extend the Term of the FSS Contract. ~~Use in FSS solicitations and contracts~~ when appropriate.

(37) 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.~~

(e) Insert the following fill-in information within the blank of paragraph (d) of FAR clause 52.216-22, Indefinite Quantity: “the completion of customer order, including options, 60 months following the expiration of the FSS contract ordering period”.

* * *

* * * * *