



FEB 27 2020

Acquisition Letter MV-20-03

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

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SUBJECT: Retention and Deletion of Federal Supply Schedule (FSS) Clauses

1. Purpose. This Acquisition Letter authorizes the continued use and deletion of certain clauses and provisions by the Federal Supply Schedule (FSS) program.

2. Background. The regulations for the Federal Supply Schedule program are gradually being updated, through a series of different GSAR Cases. GSAR Case 2013-G502, Federal Supply Schedule Contracting (Administrative Changes)¹ updated numerous non-complex provisions and clauses, updated administrative matters, and restructured the GSAR to be more consistent with the FAR. It was finalized May 23, 2019².

A number of clauses and provisions will be addressed in future rule-makings. This acquisition letter authorizes the continued use of the listed more complex clauses and provisions, pending future rule-making. This acquisition letter also deletes 16 clauses and provisions which are no longer needed.

3. Effective Date. This AL is effective immediately and remains in effect until rescinded or incorporated into the GSAM.

4. Cancellation. Not applicable.

5. Applicability. This policy applies to all acquisition activities awarding and administering FSS contracts.

6. Requirements. The following clauses and provisions may be used in solicitations issued and contracts awarded under the FSS program.

Number	Title	Description
A-FSS-011	Consideration of Offers Under Standing Solicitation	This provision outlines to Offerors the Government's contemplation of awards under a standing solicitation.
C-FSS-370	Contractor Task / Special Requirements	This clause provides the Contractor special requirements that may be needed when completing various tasks. It includes items such as travel, ODCs, materials, etc.

¹ See 79 FR 54126, dated September 10, 2014; Extension 79 FR 64356, dated October 29, 2014

² See 84 FR 17030, dated April 23, 2019; Correction 84 FR 22381, dated May 17, 2019

CI-FSS-053	Indemnification and Liability	This provision applies to disposal, salvaging, or recycling services performed under awarded contract.
CP-FSS-002	Significant Changes	Use this provision to notify offeror of revisions since the previous posting to the Government's point of entry.
F-FSS-772	Carload Shipments	Use this provision to facilitate unloading by forklift truck at destination.
G-FSS-900-C	Contact for Contract Administration	This clause provides current contract administration contact data.
I-FSS-040	Contractor Team Arrangements	This clause instructs Contractors to abide by the terms and conditions of their respective contracts when participating in Contractor Partnering Arrangements.
I-FSS-106	Guaranteed Minimum	This clause outlines the minimum guarantee that the Government agrees to order during the term of the contract.
I-FSS-163	Options to Extend the Term of the Contract (Evergreen)	This clause is for use when determining continued performance of a contract for the next option period.
I-FSS-600	Contract Price Lists	This provision provides instructions to Offerors on how to create the authorized FSS Schedule Price List.
I-FSS-639	Contract Sales Criteria	This clause provides the anticipated sales expected to be generated by a contract and the Government's right to cancel the contract if they are not met.
I-FSS-644	Dealers and Suppliers	This clause requires a letter of commitment from suppliers if not a manufacturer.
I-FSS-970	Transactional Fee and Sales Reporting	This clause requires quarterly reporting of transactions and sales for applicable Special Item Numbers (SINs) and applies to Schedule 48 contracts that were awarded SINs 653-1 and 653-5 only.
I-FSS-972 (previously 552.212-70)	Preparation of Offer (Multiple Award Schedule)	This clause provides to the Offeror the requirement of including specified information used for evaluation purposes when preparing its offer.
I-FSS-973 (previously 552.232-81)	Payments by Non-Federal Ordering Activities	This clause provides to eligible non-federal ordering activities the procedures for payment under a State prompt payment law versus the Federal Prompt Payment Act.
K-FSS-001	Authorized Negotiators	This clause stipulates persons authorized to negotiate on behalf of contractor.

L-FSS-101	Final Proposal Revision	This provision provides instructions to Offerors on how to prepare and submit a Final Proposal Revision (FPR) letter.
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7. Deletions. The following clauses and provisions are no longer necessary for the FSS program and are removed.

Number	Title
A-FSS-035	Exceptions to FAR Clause 52.225-5, Trade Agreements
A-FSS-042	Government Printing Office Waiver
CI-FSS-002	Submission of Offers - Additional Information
CI-FSS-056	FAR Part 51 Deviation Authority (Federal Supply Schedules)
CI-FSS-151	Additional Evaluation Factors for Award of Services
CI-FSS-152	Additional Evaluation Factors for Award
E-FSS-521-D	Inspection
E-FSS-522	Inspection at Destination
F-FSS-712-B	Shipping Points
F-FSS-736-B	Export Traffic Release (Vehicles)
I-FSS-102	Scope of Contract
I-FSS-103	Scope of Contract - Worldwide
I-FSS-165	Options to Extend the Term of the Contract - 12 Months
I-FSS-167	Options to Extend the Term of the Contract - 60 Days
I-FSS-694	Open Season for Consideration of New Offers (Annual Open Season)
I-FSS-971	Instruction on the Formatted Price list (FPL)

8. Point of Contact. Questions regarding this acquisition letter may be directed to GSARPolicy@gsa.gov.

Attachment

- *Retained FSS Clauses*

**A-FSS-011 CONSIDERATION OF OFFERS UNDER STANDING SOLICITATION
(JAN 2016)**

- (a) This solicitation is a standing solicitation from which the Government contemplates award of contracts for supplies/services listed in the Schedule of Items. This solicitation will remain in effect unless replaced by an updated solicitation.
- (b) There is no closing date for receipt of offers; therefore, offers may be submitted for consideration at any time.
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- (c) An offer may be rejected if an offeror fails to meet timeframes established by the Contracting Officer either to address deficiencies in the offer or to submit a final proposal revision. A resubmission(s) is permitted; however, it may be rejected immediately if it is still deficient in the area(s) that caused its initial rejection.
- (d) Contracts awarded under this solicitation will be in effect for 5 years from the date of award, unless further extended, pursuant to clause I-FSS-163, *Option to Extend the Term of the Contract (Evergreen)*, canceled pursuant to the Cancellation clause, or terminated pursuant to the termination provisions of the contract.

C-FSS-370 CONTRACTOR TASKS / SPECIAL REQUIREMENTS (NOV 2003)

- (a) **Security Clearances:** The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) **Travel:** The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- (c) **Certifications, Licenses and Accreditations:** As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- (d) **Insurance:** As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated

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with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.

(e) **Personnel:** The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.

(f) **Organizational Conflicts of Interest:** Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.

(g) **Documentation/Standards:** The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.

(h) **Data/Deliverable Requirements:** Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.

(i) **Government-Furnished Property:** As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.

(j) **Availability of Funds:** Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

(k) **Overtime:** For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

CI-FSS-053 INDEMNIFICATION AND LIABILITY (DEC 2009)

For disposal, recycling or salvage services performed under SINs cited in this solicitation, it is understood that the General Services Administration (GSA) does not become an owner, operator, generator, arranger, or transporter of hazardous substances or wastes by executing a schedule contract or by the award of a task order by an ordering agency against a schedule contract for remediation, reclamation, recycling, and disposal services. As a result, GSA shall not incur any liability under any environmental laws for contamination to the extent resulting from the negligent acts or omissions of a schedule contractor performing the services. In addition, the contractor shall be liable for, and shall indemnify and hold harmless the GSA against, all actions or claims for loss of or damage to property or the injury or death of persons to the extent

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resulting from the fault, negligence, or wrongful act or omission of the contractor, its agents, or employees.

EXCEPTION: The aforementioned does not apply when GSA is the ordering agency and is procuring remediation, reclamation, recycling and/or disposal services for property it owns and/or for which it has legal jurisdiction.

CP-FSS-002 SIGNIFICANT CHANGES (OCT 1988)

The attention of offeror is invited to the following changes made since the issuance of the last solicitation for the supplies/services covered herein:

* _____ *

F-FSS-772 CARLOAD SHIPMENTS (APR 1984)

When shipment is to be made by rail, to one destination, of a carload quantity which includes an item or items the overall length of which when packed and/or palletized, is 60 inches or over, the Contractor shall, when ordering cars, specify that, if available, double-door rail cars be furnished. This provision is intended solely to facilitate unloading by forklift truck at destination. Under no circumstances should scheduled shipment be delayed due to non-availability of double-door cars.

G-FSS-900-C CONTACT FOR CONTRACT ADMINISTRATION (JUL 2003)

Offerors should complete paragraphs (a) and (b) if providing both domestic and overseas delivery. Complete paragraph (a) if providing domestic delivery only. Complete paragraph (b) if providing overseas delivery only.

The Contractor shall designate a person to serve as the contract administrator for the contract both domestically and overseas. The contract administrator is responsible for overall compliance with contract terms and conditions. The contract administrator is also the responsible official for issues concerning 552.238-80, Industrial Funding Fee and Sales Reporting (JUL 2003), including reviews of contractor records. The Contractor's designation of representatives to handle certain functions under this contract does not relieve the contract administrator of responsibility for contract compliance. Any changes to the designated individual must be provided to the Contracting Officer in writing, with the proposed effective date of the change.

(a) Domestic:

NAME _____
TITLE _____
ADDRESS _____
ZIP CODE _____

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TELEPHONE NO. (_____) _____ FAX NO. _____
E-MAIL ADDRESS _____

(b) Overseas: Overseas contact points are mandatory for local assistance with the resolution of any delivery, performance, or quality complaint from customer agencies. (Also, see the requirement in I-FSS-594, Parts and Service.) At a minimum, a contact point must be furnished for each area in which deliveries are contemplated, e.g., Europe, South America, Far East, etc.

NAME _____
TITLE _____
ADDRESS _____
ZIP CODE _____
TELEPHONE NO. (_____) _____ FAX NO. _____
E-MAIL ADDRESS _____

I-FSS-40 CONTRACTOR TEAM ARRANGEMENTS (JUL 2003)

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with contract clause 552.238-80, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

I-FSS-106 GUARANTEED MINIMUM (NOV 2018)

The minimum that the Government agrees to order during the period of this contract is \$2,500. If the Contractor receives total orders for less than \$2,500 during the term of the contract, the Government will pay the difference between the amount ordered and \$2,500.

(a) Payment of any amount due under this clause shall be contingent upon the Contractor's timely submission of GSA Form 72A reports via the FAS Sales Reporting Portal (see GSAR 552.238-80 "Industrial Funding Fee and Sales Reporting") during the period of the contract and receipt of the close-out sales report pursuant to GSAR 552.238-80.

(b) The guaranteed minimum applies only if the contract expires or contract cancellation is initiated by the Government. The guaranteed minimum does not apply if the contract is terminated for cause or if the contract is canceled at the request of the Contractor.

**I-FSS-163 OPTION TO EXTEND THE TERM OF THE CONTRACT (EVERGREEN)
(APR 2000)**

(a) The Government may require continued performance of this contract for an additional 5 year period when it is determined that exercising the option is advantageous to the Government considering price and other factors.. The option clause may not be exercised more than three times. When the option to extend the term of this contract is exercised the following conditions are applicable:

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(1) It is determined that exercising the option is advantageous to the Government considering price and the other factors covered in (2 through 4 below).

(2) The Contractor's electronic catalog/pricelist has been received, approved, posted, and kept current on GSA *Advantage!*[®] in accordance with clause I-FSS-600, Contract Price Lists.

(3) Performance has been acceptable under the contract.

(4) Subcontracting goals have been reviewed and approved.

(b) The Contracting Officer may exercise the option by providing a written notice to the Contractor within 30 days, unless otherwise noted, prior to the expiration of the contract or option.

(c) When the Government exercises its option to extend the term of this contract, prices in effect at the time the option is exercised will remain in effect during the option period, unless an adjustment is made in accordance with another contract clause (e.g., Economic Price Adjustment Clause or Price Reduction Clause).

I-FSS-600 CONTRACT PRICE LISTS (OCT 2019)

(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.

I-FSS-639 CONTRACT SALES CRITERIA (MAR 2002)

(a) A contract will not be awarded unless anticipated sales are expected to exceed \$25,000 within the first 24 months following contract award, and are expected to exceed \$25,000 in sales each 12-month period thereafter.

(b) The Government may cancel the contract in accordance with clause 552.238-79, Cancellation, unless reported sales are at the levels specified in paragraph (a) above.

I-FSS-644 DEALERS AND SUPPLIERS (OCT 1988)

When requested by the Contracting Officer, if other than the manufacturer, the offeror must submit prior to award of a contract, either (1) a letter of commitment from the manufacturer which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period, OR (2) evidence that the offeror will have an uninterrupted source of supply from which to satisfy the Government's requirements for the contract period.

I-FSS-970 TRANSACTIONAL FEE AND SALES REPORTING (JUN 2011)

(a) The Contractor shall report the total number of transactions for applicable Special Items Numbers (SINS) made under this contract by calendar quarter.

- (b) The Contractor shall remit a fee per transaction at the rate set by GSA as follows:
- (1) The Contractor shall remit the transactional fee(s) 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 transactional fee represents a set fee per transaction. This fee is set at the discretion of GSA, who has the unilateral right to change the fee at any time. The transactional fee covers an additional level of service that is provided by GSA to the Contractor.
- (d) All other terms of clause 552.238-80 Industrial Funding Fee and Sales Reporting apply.

**I-FSS-972 (Previously 552.212-70)
AWARD SCHEDULE) (AUG 1997)**

PREPARATION OF OFFER (MULTIPLE

(a) Definitions. *Concession*, as used in this solicitation, means a benefit, enhancement or privilege (other than a discount), which either reduces the overall cost of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to freight allowance, extended warranty, extended price guarantees, free installation and bonus goods.

Discount, as used in this solicitation, means a reduction to catalog prices (published or unpublished). Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, and any other terms or conditions other than concessions) which reduce the amount of money a customer ultimately pays for goods or services ordered or received. Any net price lower than the list price is considered a "discount" by the percentage difference from the list price to the net price.

(b) For each Special Item Number (SIN) included in an offer, the Offeror shall provide the information outlined in paragraph (c). Offerors may provide a single response covering more than one SIN, if the information disclosed is the same for all products under each SIN. If discounts and concessions vary by model or product line, offerors shall ensure that information is clearly annotated as to item or items referenced.

(c) Provide information described below for each SIN:

(1) Two copies of the offeror's current published (dated or otherwise identified) commercial descriptive catalogs and/or price list(s) from which discounts are offered. If special catalogs or price lists are printed for the purpose of this offer, such descriptive catalogs or price lists shall include a statement indicating the special catalog or price list represent a verbatim extract from the Offeror's commercial catalog and/or price list and identify the descriptive catalog and/or price list from which the information has been extracted.

(2) Next to each offered item in the commercial catalog and/or price list, the Offeror shall write the special item number (SIN) under which the item is being offered. Unless a special catalog or price list is submitted, all other items shall be marked "excluded," lined out, and initialed by the offeror.

(3) The discount(s) offered under this solicitation. The description of discounts offered shall include all discounts, such as prompt payment discounts, quantity/dollar volume discounts (indicate whether models/products can be combined within the SIN or whether SINs can be

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combined to earn discounts), blanket purchase agreement discounts, or purchase option credits. If the terms of sale appearing in the commercial catalogs or price list on which an offer is based are in conflict with the terms of this solicitation, the latter shall govern.

(4) A description of concessions offered under this solicitation which are not granted to other customers. Such concessions may include, but are not limited to, an extended warranty, a return/exchange goods policy, or enhanced or additional services.

(5) If the Offeror is a dealer/reseller or the Offeror will use dealers to perform any aspect of contract awarded under this solicitation, describe the functions, if any, that the dealer/reseller will perform.

I-FSS-973 (Previously 552.232-81) PAYMENTS BY NON-FEDERAL ORDERING ACTIVITIES (MAY 2003)

If eligible non-federal ordering activities are 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 activities. If eligible non-federal ordering activities are not subject to a State prompt payment law, the terms and conditions of the Federal Prompt Payment Act as reflected in Federal Acquisition Regulation clause 52.232-25, Prompt Payment, or 52.212-4, Contract Terms and Conditions—Commercial Items, apply to such activities in the same manner as to Federal ordering activities.

K-FSS-001 AUTHORIZED NEGOTIATORS (MAR 1998)

The offeror shall, in the spaces provided below, fill in the names of all persons authorized to negotiate with the Government in connection with this request for proposals or quotations. (List the names, titles, telephone numbers, and electronic mail addresses of the authorized negotiators.)

NAMES & TITLES	TELEPHONE NUMBERS	ELECTRONIC MAIL ADDRESSES

L-FSS-101 FINAL PROPOSAL REVISION (JUN 2002)

(a) Upon the conclusion of discussions the Contracting Officer will request a final proposal revision. Oral requests will be confirmed in writing.

(b) The request will include—

- (1) Notice that discussions are concluded;
- (2) Notice that this is the opportunity to submit a final proposal revision;
- (3) The specified cutoff date and time;
- (4) A statement that any modification proposed as a result of the final proposal revision

must be received by the date and time specified and will be subject to the Late Submissions, Modifications, and Withdrawals of Proposals provision of this solicitation.

(c) The Contracting Officer will not reopen discussions after receipt of final proposal revisions unless it is clearly in the interests of the Government to do so. If discussions are reopened, the Contracting Officer will issue an additional request for final proposal revision.

(d) It is the Contracting Officer's desire to conclude negotiations by * _____*.