

FREQUENTLY ASKED QUESTIONS

Temporarily adding non-TAA compliant products under Schedule contracts to Support the Government's COVID-19 Response

Questions: TAAcompliance@gsa.gov

Question	Response
<p>How long will it take for GSA to process a TAA exception modification request?</p>	<p>Although these contract modification requests will be processed in an expedited manner, the timeframes for executing individual modification requests depends on the complexity/quality of the request.</p> <p>To facilitate expedited processing of a modification request: contractors should ensure that the instructions posted on www.gsa.gov/mascontractrequirements are followed, and should notify the CO that a modification request to temporarily add non-TAA compliant products under covered FSCs will be submitted. Note: COs can be found on gsalibrary.gsa.gov by searching by contract number or company name.</p>
<p>Is the current letter of supply still acceptable for TAA exception actions?</p>	<p>Yes, but only if the TAA exception products are covered by the existing letter of supply on file. Otherwise, an updated letter of supply may be necessary. Please note however that Clause I-FSS-644 Dealers and Supplier does allow for the submission of evidence of an uninterrupted source of supply from which to satisfy the Government's requirements in place of a formal letter of supply.</p>
<p>Do contractors have to accept Schedule Mass Mod A812 prior to submitting a modification request to add non-TAA compliant products?</p>	<p>It is highly recommended that contractors accept Mass Modification A812 to transition to the consolidated MAS solicitation as soon as practicable.</p> <p>Whether acceptance of Mass Mod A812 is required before submitting a modification request to add non-TAA compliant products depends on if contractors hold SINs that are relevant to the non-TAA compliant products to be proposed.</p> <ul style="list-style-type: none"> - If contractors are still under a legacy Schedule, and already hold a SIN that is relevant to the non-TAA compliant products, they may submit a modification request to add the products prior to accepting Mass Mod A812. - If contractors are still under a legacy Schedule, and do not hold a SIN that is relevant to the non-TAA compliant products, they will need to accept Mass Mod A812 prior to submitting a modification request to add the SIN and non-TAA compliant products.
<p>SPE Memo 2020-11 Attachment 1 identifies the list of Federal Supply Classes (FSC) that are covered by the TAA exception determination. Is the authority limited to the specific products identified in the "General Products Purchased" column?</p>	<p>No, the specific products identified under "General Products Purchased" are intended to be examples of the types of non-TAA compliant products that may be added to Schedule contracts to support the Government's COVID-19 response. Contractors are <u>not</u> limited to only proposing N95 masks under FSC 4240, for example. If proposed TAA exception items fall under the FSC code then it can be temporarily added to a contractor's Schedule contract.</p>
<p>Can I add a product, such as a COVID 19 test kit (Made in China), that is not on the list of TAA exceptions in SPE-2020-11 to a Schedule contract?</p>	<p>The authority to temporarily add non-TAA compliant products to Schedule contracts is limited to products that fall under the FSCs identified in Attachment 1 of SPE-2020-11.</p> <p>Note: the SPE has the latitude to update the SPE Memo to include additional FSCs. Any amendments to the SPE Memo will be posted on GSA.gov and a GSA Interact Notice will be issued.</p>
<p>Can an economic price adjustment or other products/services additions be proposed when submitting a modification request to temporarily add non-TAA compliant products?</p>	<p>Modification requests may include one or more Special Item Number (SIN) additions and one or more products, but the non-TAA compliant products must fall under the covered FSCs listed in Attachment 1 of SPE-2020-11 and be in direct support of the Government's COVID-19 response. Any requests to add other proposed product/service offerings, economic price adjustments, etc. in conjunction with the modification request to add non-TAA compliant products will be rejected.</p>
<p>If a contractor does not have any SINs related to the FSCs listed in SPE-2020-11, are they able to add a SIN to their contract in order to sell these products?</p>	<p>Yes, a Schedule contractor can submit an add SIN modification request to propose non-TAA compliant products if they do not already hold a SIN relevant to the FSCs covered by SPE-2020-11.</p>
<p>If a contractor has never sold non-TAA compliant products commercially, can they propose adding them to the Schedule contract?</p>	<p>Yes. Contractors proposing to add non-TAA compliant products must ensure the modification request is compliant with the specific modification guidance for adding non-TAA compliant products as well as the MAS Modification Guidance published on the GSA.gov 'Contract Requirements and Modification Guidance' site (www.gsa.gov/mascontractrequirements).</p>

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<p>Should non-TAA compliant products that are temporarily added to a Schedule contract be added to GSA Advantage?</p>	<p>Yes, any non-TAA compliant products that are temporarily awarded on a Schedule contract must be uploaded via a SIP/EDI change file for inclusion in the authorized price list on GSA Advantage!.</p> <p>Contractors should include the following notice in the product description for all non-TAA compliant products awarded and uploaded to the product catalog on GSA Advantage!: "ATTENTION: This non-TAA compliant product is only available for orders supporting the Government's COVID-19 response efforts and subject to unilateral and immediate removal by GSA. There is no dollar limit on FSS orders for this non-TAA compliant product, however, FSS orders that include these items must be issued no later than the end date of the exception authority as outlined in SPE Memo 2020-11. Orders shall be for as short of duration as is feasible to ensure an adequate supply is obtained."</p>
<p>Can Schedule BPA orders for TAA exception products be placed beyond the end date of the exception authority as outlined in SPE Memo 2020-11?</p>	<p>BPA orders may only be placed while the authority outlined in SPE-2020-11 remains in place. Note: BPA orders issued on or before the end date of the exception authority may be completed after that date. If the Senior Procurement Executive determines it is appropriate to extend the TAA exception authority, the SPE Memo will be amended. After the exception in SPE-2020-11 expires, COs cannot execute options on orders that include non-TAA compliant items that were added pursuant to the exception in SPE 2020-11.</p>
<p>Can Schedule contractors holding an Order-Level Materials (OLM) SIN include non-TAA compliant products when submitting quotes to ordering agencies?</p>	<p>If contractors hold an OLM SIN, and are not otherwise prohibited from quoting OLMs by the ordering agency, they may quote non-TAA compliant products to support the Government's COVID-19 response if the products fall under the FSCs identified in Attachment 1 of SPE-2020-11 as long as:</p> <ol style="list-style-type: none"> 1) the SPE Memo remains in effect; 2) OLMs are not the primary basis or purpose of the order; 3) the work outlined in the order is otherwise eligible for the inclusion of OLMs; and 4) all other procedures/limitations related to OLMs are followed/satisfied. <p>(See GSAR 552.238-82 Special Ordering Procedures for the Acquisition of Order-Level Materials, the OLM SIN description and the GSA.gov page for Order-Level Materials)</p>
<p>Will GSA issue standards for non-TAA compliant products, such as NIOSH Approved (N95 masks) vs FDA Cleared (surgical masks)?</p>	<p>GSA will not issue specific standards for masks or other personal protective equipment. However, commercial warranties would apply to any non-TAA compliant products that are temporarily awarded on a Schedule contract. Note: inclusion of this type of information in the product descriptions facilitates the Government's evaluation of the proposed product and promotes clarity when an ordering agency is viewing the item on GSA Advantage!.</p>
<p>How will non-TAA compliant products be removed from a Schedule contract once a TAA exception is no longer effective?</p>	<p>GSAR Clause 552.238-79 Cancellation will be used to unilaterally remove any non-TAA compliant products from a Schedule contract when SPE-2020-11 is cancelled or expires, or when an FSC is removed from Attachment 1 of SPE-2020-11.</p>
<p>When the temporary authority to offer non-TAA compliant products on Schedule contracts expires, what actions must a contractor take?</p>	<p>GSA will issue a unilateral contract modification to remove the non-TAA compliant products from the Schedule contract. Immediately upon issuance of the unilateral modification, contractors are required to submit a change file via SIP/EDI to remove the non-TAA compliant products from the price list on GSA Advantage!.</p>
<p>Is an Ordering Contracting Officer required to consider non-TAA compliant products under the covered FSCs while SPE-2020-11 is in effect?</p>	<p>The Ordering Contracting Officer is not required to consider non-TAA compliant products if the instructions in the Request for Quotes (RFQ) state that only TAA compliant products will be considered. The intent of the exception determination is to increase supply of critical and essential items by granting COs the temporary authority to procure non-TAA compliant products under the covered FSCs, it is not a mandate to do so.</p>
<p>What should be submitted when proposing to temporarily add non-TAA compliant products to a Schedule contract?</p>	<p>Detailed instructions and templates for adding non-TAA compliant products are posted on the GSA.gov 'Contract Requirements and Modification Guidance page (www.gsa.gov/mascontractrequirements). Please note that the standard modification requirements for adding SINs/products also apply to any modification requests to add non-TAA compliant products.</p>
<p>Can an existing Schedule BPA be modified to include non-TAA compliant products?</p>	<p>If the products are within scope of the Schedule BPA, a Contracting Officer has the discretion to modify existing Schedule BPAs to include non-TAA compliant products after the products have been added to the contractor's Schedule contract.</p>