



Federal Acquisition Regulation (FAR) Part 51 Deviation Ordering Guide

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1.0 Introduction

1.1 Purpose

Federal Acquisition Regulation (FAR) 51.1, Contractor Use of Government Supply Sources, prescribes policies and procedures under which contractors may use government supply sources. Currently, contracting officers may authorize contractors to use General Services Administration (GSA) sources of supply in the performance of cost-reimbursement contracts and under other limited scenarios when determined to be in the best interest of the Government.

In order to better meet the needs of GSA's customer agencies, a deviation to FAR Part 51.1 has been approved to expand the authority of contractors to use GSA sources of supply. Specifically, Federal Government contracting officers have been authorized to give GSA contractors access to the Federal Supply Schedule (FSS) and GSA Global Supply Programs when deemed appropriate for fulfillment of their agency requirements. Please note that the FSS Program is inclusive of those Schedules managed by the Department of Veterans Affairs. This authority is limited to orders:

- Placed on a time-and-materials (T&M)/labor-hour (LH) basis—an order placed by the Federal Government to the buying contractor can be partially fixed price, but the portion of the order for the items to be procured using the FAR 51 deviation must be T&M/LH;
- For ancillary supplies/services that are in support of the overall order such that the items are not the primary purpose of the work ordered, but are an integral part of the total solution offered;
- Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;
- Placed by the Federal Government. The authorization is **NOT** available to state and local governments.

1.2 Benefits

The ability for GSA contractors to purchase from the FSS and Global Supply Programs benefits our customers and contractor community.

- Allows GSA contractors to provide a total contract solution to meet customers' needs.
- Expands upon existing benefits of GSA vehicles, such as streamlining of procurements, ease of ordering, leveraged pricing, time savings, and responsible contractors.
- Meets customer needs expeditiously because the ancillary supplies and services are readily available from the FSS Program or Global Supply Program.
- Reduces agency procurement and contract administration costs.
- Provides agencies opportunities to increase utilization of small businesses.
- Reduces the necessity for government furnished equipment (GFE), which is labor intensive to properly administer.
- Simplifies market research via existing GSA eTools.
- Encourages competition among contractors to seek the best solution, resulting in cost savings to the Government.
- Enables use of supply funds by contractors, which is the preferred payment method for some agencies.

1.3 Definitions

- Federal Government: The eligible user of the FAR Part 51 deviation.
- Buying Contractor: The contractor who receives the primary order from the Federal Government and subsequently acts as the Federal Government's agent when placing an order to the selling contractor.
- Selling Contractor: The contractor who receives the secondary order placed under the FAR Part 51 authority from the buying contractor.
- Authorization: Written approval from the Federal Government for the contractor to use a Government supply source.
- Time and Materials: A time-and-materials contract provides for acquiring supplies or services on the basis of— direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and actual cost for materials (FAR16.601(b)).
- Labor Hour: A labor-hour contract is a variation of the time-and-materials contract, differing only in that materials are not supplied by the contractor (FAR 16.602).

2.0 Criteria for Use

When utilizing the authority granted under the FAR Part 51 deviation, all of the following criteria need to be met.

2.1 Primary Orders Are Issued on a Time-and-Materials (T&M)/Labor-Hour (LH) Basis

All or part of a primary order (order issued from the Federal Government to the buying contractor) must be on a T&M/LH basis. A portion of the primary order may be fixed price, but the items to be purchased under the FAR Part 51 authority must be structured on a T&M/LH basis. T&M/LH contracts/orders are utilized when it is not possible at the time of award to estimate accurately the extent or duration of the work or to confidently anticipate the costs. Prior to awarding an order with a "not to exceed ceiling price", the Federal Government verifies that the ceiling price for support items and services purchased is reasonable.

When GSA contractors place orders with MAS and Global Supply contractors under the FAR 51 authority, the buying contractor who is purchasing the items must not add a fee or markup to the items. Additional fees/surcharges/markups are NOT permitted. Items must be invoiced at the price for which they were procured from the selling contractor.

2.2 Orders Are Limited to FAR 8.405-1, Ordering Procedures for Supplies, and Services Not Requiring a Statement of Work

Buying contractors must follow the procedures outlined in [FAR 8.405-1](#). The procedures are used when ordering supplies and services that are listed in the Schedule contract at a fixed price for the performance of a specific task, where a statement of work is not required (e.g., installation, maintenance, and repair).

Purchases made on behalf of the Federal Government under the FAR 51 Part authority should not be issued to a contractor's own firm(s), subsidiary(s), subcontractors or teaming partners in order to maximize competition.

2.3 Supplies and/or Services are Ancillary to the Primary Purpose of the Order

Supplies and/or services procured under the FAR 51 authority must be ancillary in nature. The supplies and services shall not be the primary purpose of the work ordered, but an integral part of the total solution that is offered. Please note that there are different and additional requirements associated with Special Item Numbers (SINs) on numerous Schedules that contain Ancillary Repair and Alternations (R&A).

2.4 Use of Deviation is Not Available to State and Local Governments

The authority does not extend to state and local ordering activities and is intended for use only by Federal Government contracting officers.

3.0 Responsibilities

3.1 Federal Government

The Federal Government Must:

- Use the FAR 51 deviation appropriately and in accordance with applicable FAR Parts, including FAR Part 51 and the guidance contained in this ordering guide.
- Include Clause 52.251-1 Government Supply Sources, in applicable Request for Quotes (RFQs). The RFQ should also specifically state that items may be proposed on a T&M/LH basis using the FAR Part 51 authority. However, the Federal Government may not mandate that the quote/proposal include items under FAR 51.
- Issue a written authorization to the buying contractor in accordance with FAR Subpart 51.102. An authorization template, that contains additional information specific to the FAR Part 51 deviation, is provided in Section 6.0.
- Ensure that the buying contractor is in compliance with the written authorization and has followed the ordering procedures in FAR 8.405-1 to promote competition. Compliance with FAR 8.405-1 can be verified by requesting from the buying contractor evidence that competition has been conducted, e.g. RFQ, quotes received, etc.
- Include the supplies and services ordered by the buying contractor in the dollar amount reported to Federal Procurement Data System (FPDS-NG) in accordance with FAR 4.606. Orders from GSA stock and the GSA Global Supply Program do not need to be reported in FPDS-NG.
- Assign the AAC or DODAAC if the contractor will be using the GSA Global Supply Program.

3.2 Buying Contractor

Contractors Placing Orders Must:

- Identify and separate those ancillary supplies/services that are proposed to be purchased under the FAR Part 51 authority on the quote submitted to the Federal Government and on the subsequent invoice.
- Purchase supplies and/or services at the Schedule contract price (or lower) with no fee/surcharge/markup. If supplies and/or services are provided by the selling contractor at lower than the contract price, the buying contractor must pass on the savings by invoicing the Federal Government accordingly.
- Ensure that the products and/or services procured under FAR 51 procedures are ancillary to the overall project/order.
- Provide a copy of the written authorization from the Federal Government with each applicable order to the selling contractor.
- Ensure that the buying contractor's Schedule contract number is on each order issued to the selling contractor.
- Remit full payment to the selling contractor.
- Submit documentation of the transmittal of full payment to the selling contractor when invoicing the Federal Government.
- Follow any applicable FSS or GSA Global Supply Program ordering procedures in addition to procedures outlined in FAR 8.405-1 and FAR Part 51. For more information on placing orders with GSA Global Supply, please visit www.gsaglobalsupply.gsa.gov.

3.3 Selling Contractor

Schedule Contractors Accepting Orders Must:

- Have the ability to accept or reject orders from the buying contractor.
- Ensure that a copy of the written authorization from the Federal Government is included in the order issued by the buying contractor.
- Ensure that the buying contractor's contract number is shown on each order.
- Sell to the buying contractor at the MAS contract price or lower pursuant to FAR 8.4.
- Understand that a purchase made under the authority of FAR Part 51 does not trigger a price reduction under GSAR clause 552.238-75, Price Reductions.
- Include on each invoice the language, "in care of '[name of government agency]' under written authorization from _____ dated _____".
- Assume the financial risk and other risks of selling directly to another contractor. Any dispute involving the distribution of payment between the buying and selling contractor will be resolved without any involvement by the Federal Government. Since each contractor has a Schedule or Global Supply contract, each contractor is held accountable under the terms and conditions of its contract for any problems, such as warranty or performance issues.
- Track and report sales as Schedules contract sales, and remit the Industrial Funding Fee (IFF) accordingly.

3.4 Global Supply

GSA Global Supply will:

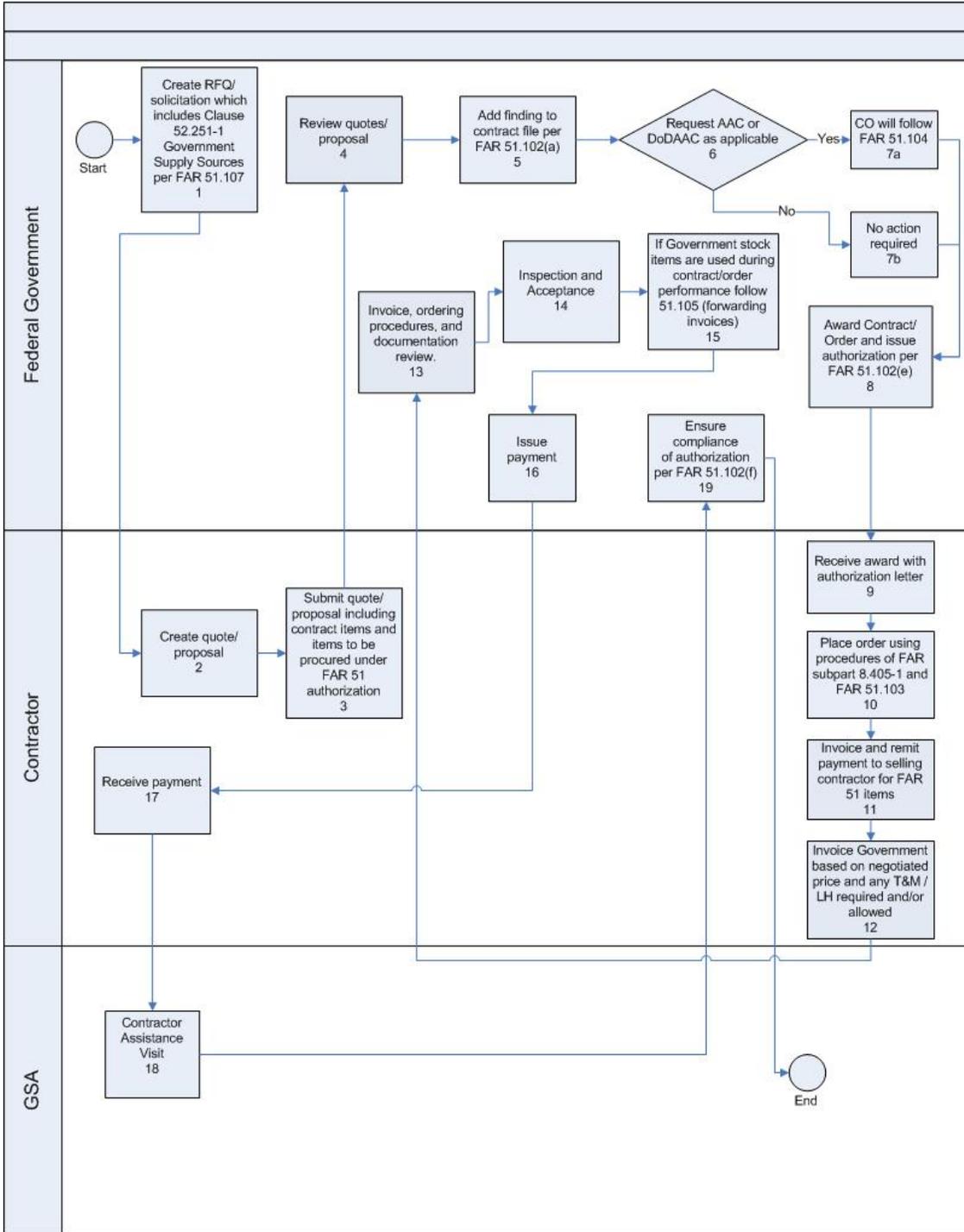
- Accept all orders from buying contractors, provided the contractor provides evidence that he has the proper authorization and an Activity Address Code (AAC) or Department of Defense Activity Address Code (DODAAC).
- Charge the standard price.
- Follow normal requisition processes using assigned AAC or DODAAC.

4.0 Process

The process map below outlines the general ordering process and each stakeholder's responsibilities for use of the FAR Part 51 deviation. The process steps are numbered in sequential order, and the following section (4.2) elaborates on each of the steps.

For more information on placing orders with the FSS Program, please visit www.gsa.gov/schedules-ordering. For more information on placing orders with GSA Global Supply, please visit www.gsaglobalsupply.gsa.gov.

4.1 Process Map



4.2 Explanation of Process Steps

4.2.1. (Federal Government) Include Clause 52.251-1

The Federal Government includes Clause 52.251-1, Government Supply Sources, in all solicitations/Request for Quotes (RFQ) to indicate to prospective offerors that items to be procured under the FAR Part 51 deviation may be proposed as part of the quote/proposal. The solicitation/RFQ should also specifically state that the items will be awarded on a T&M/LH basis. The Federal Government should not mandate that the quote/proposal include items under FAR Part 51.

4.2.2 (Buying Contractor) Create quote(s)/proposal

The buying contractor is responsible for preparing a quote/proposal in accordance with the solicitation/RFQ requirements. The contractor does not have to utilize FAR Part 51; however, if he chooses to do so, all ancillary items to be purchased pursuant to the FAR Part 51 authority will be proposed on a T&M/LH basis with an established ceiling price. Items proposed to be purchased under FAR 51 should be clearly labeled as such and separated from proposed, fixed price Schedule items.

4.2.3 (Buying Contractor) Submit quote(s)/proposal

The contractor submits the prepared quote(s)/proposal to the Federal Government.

4.2.4 (Federal Government) Review quote(s)/proposal

The Federal Government reviews the submitted quotes/proposals in accordance with the RFQ/solicitation and FAR Subpart 8.4.

- T&M/LH – When reviewing a T&M/LH pricing structure where a not to exceed or estimate is used for all proposed items, including ancillary items and services, the Contracting Officer will verify that the estimated price/ceiling price is reasonable given the proposed labor mix, level of effort, type of other direct costs included, etc.
- Combination of Fixed Price and T&M/LH - The Contracting Officer will review the proposed items under the contractor's schedule contract as a fixed price and will verify that the estimated ceiling price for support items and services to be purchased pursuant to the FAR Part 51 authority on a T&M/LH basis is reasonable.

4.2.5 (Federal Government) Add written finding supporting the issuance of the authorization to the contract file per FAR 51.102(a)

The Federal Government will place a written finding in the contract file that supports issuance of the authorization to the buying contractor to use Government supply sources in accordance with FAR 51.102(a).

4.2.6 (Federal Government) Request AAC or DODAAC as applicable

This step is applicable for orders being placed with GSA Global Supply. An AAC is a code that identifies an activity that has authority to requisition or receive material. The DODAAC serves a similar purpose for DOD activities. In accordance with FAR 51.104, the Federal Government will request an AAC/DODAAC with a time limited access code for the contractor, as applicable, so that the contractor may requisition for the contract.

4.2.7 Is an AAC or DODAAC required?

a) Yes

Follow FAR 51.104 Furnishing Assistance to Contractors, which describes how the Federal Government should go about helping the contractor with the AAC and the associated ordering information and instructions - FEDSTRIP or MILSTRIP and forms

b) No

No action is needed.

4.2.8 (Federal Government) Award contract or order and issue authorization per FAR 51.102(e)

The authorization must include all of the applicable elements listed in FAR 51.102(e). A suggested template is attached in Section 6.0. Please note that the Federal Government may include any other limitations or conditions in the authorization when necessary, e.g. dollar value thresholds (FAR Part 51.102(e)(4)).

4.2.9 (Buying Contractor) Receive award with written authorization

When the contractor receives the contract or order award, it will include a copy of the written authorization (see Step 8).

4.2.10 (Buying Contractor) Place order using proper procurement procedures

The buying contractor must comply with FAR 8.405-1 when purchasing from the Federal Supply Schedules and follow the normal requisition process when purchasing from the Global Supply Program. In addition to the procedures outlined in FAR 51.103, the contractor should also follow the best practices outlined in this ordering guide. The buying contractor must provide a copy of the authorization provided by the Federal Government to the selling contractor.

4.2.11 (Buying Contractor) Invoice and remit payment to selling contractor for items procured under the FAR 51 authority

The buying contractor must remit full payment to the selling contractor prior to invoicing the Federal Government.

4.2.12 (Buying Contractor) Invoice the Government

The buying contractor submits an invoice reflective of the pricing agreement. The contractor passes through the purchase price of items procured under FAR Part 51 with no fee or markup. Items purchased under the FAR Part 51 authority should be identified and separated from the rest of the items on the invoice. The buying contractor should provide appropriate documentation that the selling contractor has been paid in full.

4.2.13 (Federal Government) Invoice, ordering procedures and documentation review

The Federal Government reviews the invoice prior to approving payment. In a T&M/LH order, the Federal Government is paying the contractor at the schedule price paid by the contractor (minus any discount) for individually line itemed labor-hours and materials. It is the Federal Government's responsibility to ensure that the contractor has complied with all stipulations in the written authorization. The Federal Government should request additional documentation to support that the contractor followed the appropriate procurement procedures.

4.2.14 (Federal Government) Inspection and Acceptance

The Federal Government inspects and accepts the products and/or services.

4.2.15 (Federal Government) If Government stock items are used during contract performance follow FAR 51.105 (forwarding invoices)

FAR 51.105 states that GSA, DOD and VA will wait to forward a bill for supplies from Government Stock to a contractor until the supplies have been shipped.

4.2.16 (Federal Government) Issue payment

The Federal Government will authorize and issue payment.

4.2.17 (Contractor) Receive payment

The contractor who placed the order receives payment from the Federal Government.

4.2.18 (GSA) Contractor Assistance Visit (CAV)

The Industrial Operations Analyst (IOA) conducts Contractor Assistance Visits (CAVs) periodically throughout the contract term.

4.2.19 (GSA)

The Industrial Operations Analyst (IOA) generally conducts Contractor Assistance Visits (CAVs) at mid-term and end of the contract term. The CAV is a review of the contractor's processes to meet Federal Supply Schedule contract requirements.

CAV Question (new in late 2010) – Was an order(s) placed by a GSA contractor for a Government Federal Government and fulfilled by a Federal Supply Schedule contractor?

a) No

No review is needed.

b) Yes

Starting in late 2010 and as part of the routine CAV, the IOA will also verify that a written authorization(s) is in place for applicable sales. The IOA will report accordingly to the GSA Contracting Officer for the Schedule contract.

4.2.20 (Federal Government) Ensures that authorization and ordering procedures are followed properly

The Federal Government Contracting Officer who grants the authorization is responsible for ensuring that the contractor has complied with the written authorization and all applicable regulations.

5.0 Questions and Answers

Question: Can the Federal Government Contracting Officer tailor the written authorization?

Answer: Yes. FAR Part 51.102(4) permits the authorization to be tailored. The Contracting Officer may limit the scope and purchasing authority by customizing the authorization to limit the scope to specific supplies or services, specific schedules, dollar thresholds, socioeconomic requirements, etc.

Question: Does the selling contractor have to accept an order placed by the buying contractor?

Answer: No. Accepting an order from a buying contractor is optional.

Question: When the buying contractor is procuring Schedule items from another Schedule contractor, does the buying contractor have to report the sales to GSA and pay the IFF?

Answer: No. The selling contractor is responsible for reporting sales and remitting the IFF.

Contractors placing orders do not report sales and remit IFF on items procured under FAR Part 51. When acting under the authority granted by the FAR 51 deviation, the buying contractor is an authorized user of GSA's FSS and Global Supply Programs. The products/services procured under this authority are not considered to be MAS sales because these items are not on the buying contractor's Schedule contract and are therefore not subject to sales reporting and IFF remittance. To ensure that the sales are segregated appropriately, adjustments to the buying contractor's sales tracking system may be necessary.

Question: So even though the selling contractor is selling their Schedule items to another Schedule contractor, the sales are still considered to be Schedule sales?

Answer: Yes. Contractors accepting orders report sales and remit IFF on items procured under FAR Part 51. When accepting orders from the buying contractor with a valid authorization, selling contractors are making MAS contract sales to an authorized user of the FSS Program pursuant to the FAR 51 deviation. As such, the products/services procured under the authority are considered to be MAS contract sales. All contract requirements for sales reporting and IFF remittance apply. To ensure that the sales are segregated appropriately, adjustments to the selling contractor's sales tracking system may be necessary.

Question: Does the Price Reduction clause apply to FAR Part 51 sales?

Answer: No. In the normal course of business, FSS contractors are contractually obligated to notify the GSA Contracting Officer of price reductions in accordance with GSAM clause 552.238-75 Price Reductions. However, GSA contractors purchasing from the FSS Program and/or Global Supply Program in accordance with FAR 51.101 are authorized users; therefore, pursuant to GSAM clause 552.238-75(d)(2) Price Reductions, there is no price reduction for sales to eligible ordering activities under a Schedule contract.

Question: Can the Federal Government modify an existing order to incorporate the FAR 51 authority?

Answer: No. The authorization needs to be issued with the original order.

Question: Can the Federal Government modify an existing Blanket Purchase Agreement (BPA) to incorporate the FAR 51 authority?

Answer: No.

Question: Can the buying contractor add any additional markup/fee onto the items procured under the FAR 51 authority, even if the fee is associated with a legitimate cost like a material handling charge?

Answer: No. The items procured under the authority must be passed through to the Federal Government at the MAS contract price less any applicable discount. No markup of any kind is permitted on this portion of the order.

Question: Can the buying contractor use GSA e-Buy to satisfy the requirements of FAR 8.405-1?

Answer: Not yet. GSA intends to make the necessary modifications to e-Buy to permit use by contractors in the near future. It's also possible that GSA will mandate e-Buy or other electronic tools; however, at the moment, these tools are not available for contractor use.

Question: If the buying contractor chooses not to use the FAR 51 authority, what other options are available to satisfy the Federal Government's overall requirement?

Answer: There are other options available. Refer to www.gsa.gov for more information. For example, if permitted by the order, contractors may use contractor team arrangements (www.gsa.gov/cta), subcontracts, and open market items in accordance with FAR 8.402(f).

6.0 Authorization Template

A. This FAR 51 deviation authorization is for orders:

- Placed on a time-and-materials (T&M) basis;
- For supplies/services that are ancillary or in support of the overall order;
- Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;
- For new contracts and orders. Authorizations under the FAR 51 authority cannot be issued on existing contracts or orders; and
- Placed by the Federal Government. The authorization is not available to state and local governments.

This authorization is limited to the following dates: The period from _____ to _____.

This authorization is limited to the following specific dollar amount: _____ per period _____.

This authorization is limited to the following Federal Supply Schedule(s): All ____
Limited to only the following Schedule(s):

This authorization is limited to the following Global Supply Program product(s): All ____
Limited to only the following product(s):

The property acquired under this authority will:

Automatically vest in title to: Government _____ Contractor _____

Additional limitations or conditions for use of this authority:

B. As a user of this authority under the Federal Supply Schedule Contracts, you must comply with the following:

- Follow any applicable FSS ordering procedures in addition to procedures outlined in FAR 8.405-1. FAR 51, agency supplements, any other applicable statutes and regulations;
- In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the terms and conditions of your Federal Supply Schedule contract will govern;

- Pass through supplies and/or services at the Schedule contract price (or lower) with no fee/surcharge/markup. If supplies and/or services are provided by the selling contractor at lower than the contract price, the savings must be passed on to the government by charging the ordering activity accordingly;
- Ensure that the products and/or services procured under FAR 51 procedures are ancillary to the overall project/order;
- Provide a copy of the written authorization from the ordering activity with each applicable order;
- Ensure that the Schedule contract number is on each order;
- Remit full payment to the selling contractor prior to invoicing the ordering activity;
- Not issue any orders under the FAR 51 authority to my own firm(s), subsidiary(s), subcontractors or teaming partners; and
- Ensure that the selling contractor includes on each invoice, “in care of ‘[name of government agency]’ under written authorization from _____ dated _____”.

C. As a user of this authority under the GSA Global Supply Program, you must comply with the following:

- Follow any applicable GSA Global Supply Program ordering procedures;
- Ensure that the products and/or services procured under FAR 51 procedures are ancillary to the overall project/order;
- Provide a copy of the written authorization from the ordering activity with each applicable order;
- Ensure that the Global Supply number is on each order; and
- Not issue any orders under the FAR 51 authority to my own firm(s), subsidiary(s), subcontractors or teaming partners.

Contractors placing orders for Government Supply shall—

(1) Comply with the requirements of the contracting officer’s authorization, using FEDSTRIP or MILSTRIP procedures, as appropriate;

(2) Use only the Government activity address code obtained by the contracting officer in accordance with [51.102\(e\)](#) along with the contractor’s assigned time limited access code, when ordering from GSA Customer Supply Centers. Time limited access codes should be reviewed at periodic intervals and extended/cancelled based on the Government’s need; and

(3) Order only those items required in the performance of their contracts.

The contractor is hereby authorized to use the following supply source(s):

The GSA Supply Program (Requisitioning with FEDSTRIP or MILSTRIP): **Yes No**

Note: When requisitioning from GSA or DoD, the contractor shall use FEDSTRIP or MILSTRIP, as appropriate, and include the activity address code assigned by GSA or DoD. This authority should be time limited with automated pass code expiration and accounts monitored. When requisitioning from the VA, the contractor should use FEDSTRIP or MILSTRIP, as appropriate, **Optional Form 347**, Order for Supplies or Services (see 53.302-347), or an agency-approved form. When placing orders for helium with the Bureau of Land Management, the contractor shall reference the Federal contract number on the purchase order;