

out its quality control obligations and shall contain measurable inspection and acceptance criteria corresponding to the performance standards contained in the statement of work. The quality assurance surveillance plans shall focus on the level of performance required by the statement of work, rather than the methodology used by the contractor to achieve that level of performance.

**37.602-3 Selection procedures.**

Agencies shall use competitive negotiations when appropriate to ensure selection of services that offer the best value to the Government, cost and other factors considered (see 15.605).

**37.602-4 Contract type.**

Contract types most likely to motivate contractors to perform at optimal levels shall be chosen (see subpart 16.1 and, for research and development contracts, see 35.006). To the maximum extent practicable, performance incentives, either positive or negative or both, shall be incorporated into the contract to encourage contractors to increase efficiency and maximize performance (see subpart 16.4). These incentives shall correspond to the specific performance standards in the quality assurance surveillance plan and shall be capable of being measured objectively. Fixed-price contracts are generally appropriate for services that can be defined objectively and for which the risk of performance is manageable (see subpart 16.1).

**37.602-5 Follow-on and repetitive requirements.**

When acquiring services that previously have been provided by contract, agencies shall rely on the experience gained from the prior contract to incorporate performance-based contracting methods to the maximum extent practicable. This will facilitate the use of fixed-price contracts for such requirements for services. (See 7.105 for requirement to address performance-based contracting strategies in acquisition plans. See also 16.104(k).)

**PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING**

Sec.

38.000 Scope of part.

**Subpart 38.1—Federal Supply Schedule Program**

38.101 General.

**Subpart 38.2—Establishing and Administering Federal Supply Schedules**

38.201 Coordination requirements.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42368, Sept. 19, 1983, unless otherwise noted.

**38.000 Scope of part.**

This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration (see subpart 8.4, Federal Supply Schedules, for additional information). The Department of Defense uses a similar system of schedule contracting for military items that are also not a part of the Federal Supply Schedule program.

[59 FR 53717, Oct. 25, 1994, as amended at 61 FR 41470, Aug. 8, 1996]

**Subpart 38.1—Federal Supply Schedule Program**

**38.101 General.**

(a) The Federal Supply Schedule program provides Federal agencies with a simplified process of acquiring commonly used supplies and services in varying quantities at lower prices while obtaining discounts associated with volume buying. Indefinite delivery contracts (including requirements contracts) are awarded, using competitive procedures, to commercial firms to provide supplies and services at stated prices for given periods of time, for delivery within the 48 contiguous states, Washington, DC, and possibly Alaska, Hawaii, and overseas deliveries. The schedule contracting office

issues publications, titled Federal Supply Schedules, containing the information needed for placing delivery orders with the contractors.

(b) Each schedule identifies specific agencies in designated geographic areas that are required to use the contracts as primary sources of supply.

(c) Federal agencies not identified in the schedules as mandatory users (see 8.404-2) may issue orders under the schedules, and the contractors are encouraged to accept the orders.

(d) Although GSA awards most Federal Supply Schedule contracts, it may authorize other agencies to award schedule contracts and publish schedules; e.g., the Department of Veterans Affairs awards schedule contracts for certain medical and nonperishable subsistence items.

[48 FR 42368, Sept. 19, 1983, as amended at 50 FR 1745, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985; 54 FR 29282, July 11, 1989; 59 FR 53717, Oct. 25, 1994; 62 FR 40237, July 25, 1997]

## Subpart 38.2—Establishing and Administering Federal Supply Schedules

### 38.201 Coordination requirements.

(a) Subject to interagency agreements, contracting officers having responsibility for awarding Federal Supply Schedule contracts shall coordinate and obtain approval of the General Services Administration's Federal Supply Service (FSS) before—

- (1) Establishing new schedules;
- (2) Discontinuing existing schedules;
- (3) Changing the scope of agency or geographical coverage of existing schedules; or
- (4) Adding or deleting special item numbers, national stock numbers, or revising their description.

(b) Requests should be forwarded to the General Services Administration, Federal Supply Service, Office of Acquisition (FC), Washington, DC 20406.

[48 FR 42368, Sept. 19, 1983, as amended at 54 FR 29282, July 11, 1989; 56 FR 55372, Oct. 25, 1991; 59 FR 53718, Oct. 25, 1994; 62 FR 40237, July 25, 1997]

## PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

Sec.

- 39.000 Scope of part.
- 39.001 Applicability.
- 39.002 Definitions.

### Subpart 39.1—General

- 39.101 Policy.
- 39.102 Management of risk.
- 39.103 Modular contracting.
- 39.104 [Reserved]
- 39.105 Privacy.
- 39.106 Year 2000 complaints.
- 39.107 Contract clause.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 61 FR 41470, Aug. 8, 1996, unless otherwise noted.

### 39.000 Scope of part.

This part prescribes acquisition policies and procedures for use in acquiring information technology consistent with other parts of this chapter and OMB Circular No. A-130, Management of Federal Information Resources.

### 39.001 Applicability.

This part applies to the acquisition of information technology by or for the use of agencies except for acquisitions of information technology for national security systems. However, acquisitions of information technology for national security systems shall be conducted in accordance with 40 U.S.C. 1412 with regard to requirements for performance and results-based management; the role of the agency Chief Information Officer in acquisitions; and accountability. These requirements are addressed in OMB Circular No. A-130.

### 39.002 Definitions.

*Modular contracting*, as used in this part, means use of one or more contracts to acquire information technology systems in successive, interoperable increments.

*National security system*, as used in this part, means any telecommunications or information system operated by the United States Government, the function, operation, or use of which—

- (a) Involves intelligence activities;