

Schedule), in solicitations issued and contracts awarded under the multiple award schedule program.

(3) 48 CFR 552.211-79, Acceptable Age of Supplies, or 48 CFR 552.211-80, Age on Delivery, in solicitations and contracts if the contractor will be required to furnish shelf-life items within a specified number of months from the date of manufacture or production of the supplies. (See 101-27.206-2 of the Federal Property Management Regulation.) The Acceptable Age of Supplies clause at 48 CFR 552.211-79 should be used when the required shelf-life period is 12 months or less, and lengthy acceptance testing may be involved. For items having a limited shelf-life, Alternate I to 48 CFR 552.211-79 must be substituted for the basic clause when required by the director of the FSS commodity center concerned. The Age on Delivery clause at 48 CFR 552.211-80 should be used when the required shelf life period is more than 12 months, or when source inspection can be performed within a short time period.

(4) 48 CFR 552.211-81, Time of Shipment, in solicitations and stock replenishment contracts that do not include the Availability for Inspection, Testing and Shipment/Delivery clause at 48 CFR 552.211-83 and require shipment within 45 calendar days after receipt of the order. If shipment is required in more than 45 days, use Alternate I.

(5) 48 CFR 552.211-82, Notice of Shipment, in solicitation and contracts for supplies when it is in the Government's interest to have the contractor furnish a notice of shipment.

(6) 48 CFR 552.211-83, Availability for Inspection, Testing and Shipment/Delivery, in solicitations and contracts that provide for source inspection by Government personnel and that require lengthy testing for which timeframes cannot be determined in advance. If the contract is for stock items, use Alternate I.

(b) *Construction contracts.* The contracting officer shall insert the clause at 48 CFR 552.211-84, Non-compliance with Contract Requirements, in solicitations and contracts for construction when the contract amount is expected

to exceed the simplified acquisition threshold.

[54 FR 26512, June 23, 1989, as amended at 60 FR 42803, Aug. 17, 1995. Redesignated and amended at 61 FR 6166, Feb. 16, 1996; 61 FR 14033, Mar. 29, 1996]

PART 512—ACQUISITION OF COMMERCIAL ITEMS

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Subpart 512.2—Special Requirements for the Acquisition of Commercial Items

SOURCE: 61 FR 6166, Feb. 16, 1996, unless otherwise noted.

512.203 Procedures for solicitation, evaluation, and award.

Contracting officers shall use the policies in FAR Part 12 and 48 CFR Part 512 in conjunction with the policies and procedures for Federal Supply Schedules in FAR Part 38 and 48 CFR Part 538.

512.209 Pricing of commercial items when contracting by negotiation.

When awarding multiple award schedule contracts for commercial items, the policies and procedures in FAR Part 15 and 48 CFR Part 515 shall be used to establish the reasonableness of prices.

Subpart 512.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

SOURCE: 61 FR 6166, Feb. 16, 1996, unless otherwise noted.

512.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) *Solicitation provisions/clauses.* The contracting officer shall insert the following provisions or clauses in solicitations for the acquisition of commercial items in accordance with the prescriptions provided:

(1) The provision at 48 CFR 552.212-70, Preparation of Offer (Multiple Award Schedule), in solicitations issued under the multiple award schedule program.

(2) The clause at 48 CFR 552.212-71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items when listed clauses apply and are incorporated by reference. The clause provides for the incorporation by reference of terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practice. The contracting officer may tailor this clause.

(3) The clause at 48 CFR 552.212-72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisitions of Commercial Items when listed clauses apply and are incorporated by reference. The clause provides for the incorporation by reference of terms and conditions which are required to implement provisions of law or executive orders applicable to acquisitions of commercial items.

(4) The provision at 48 CFR 552.212-73, Evaluation—Commercial Items (Multiple Award Schedule), shall be used instead of FAR 52.212-2 in solicitations issued under the multiple award schedule program.

(b) *Use of required GSAR provisions and clauses.* Notwithstanding prescriptions contained elsewhere in the GSAR (48 CFR Chapter 5), when acquiring commercial items, contracting officers shall be required to use only those provisions and clauses prescribed in this part. The provisions and clauses prescribed in this part shall be revised, as necessary, to reflect the applicability of statutes and executive orders to the acquisition of commercial items.

(c) *Discretionary use of GSAR provisions and clauses.* The contracting officer may include in solicitations and contracts by addendum other GSAR provisions and clauses when their use is consistent with the limitations contained in FAR 12.302(c).

(d) *Use of additional provisions and clauses.* Provisions or clauses that are not prescribed in the FAR or GSAR for use in contracts for commercial items may not be used unless approved by the Senior Procurement Executive (see 48 CFR 502.101) or determined to be consistent with customary commercial practice through market research.

512.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Requests for waivers shall be prepared in accordance with FAR 12.302(c) and submitted for approval by the chief of the contracting office (see 48 CFR 502.101) if an individual contract is involved or by the contracting director (see 48 CFR 502.101) if a class of contracts is involved.