

**PART 512—ACQUISITION OF
COMMERCIAL ITEMS**

AUTHORITY: 40 U.S.C. 486(c).

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

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

(a) *Solicitation provisions and clauses.* Insert these provisions or clauses in solicitations or solicitations and contracts, respectively, in accordance with the instructions provided:

(1) 552.212-70, Preparation of Offer (Multiple Award Schedule), in solicitations and contracts issued under the multiple award schedule program.

(2) 552.213-71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items, when listed clauses apply. The clause provides for incorporation by reference of terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause.

(3) 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. The clause provides for the incorporation

by reference of terms and conditions required to implement provisions of law or executive orders that apply to commercial item acquisitions.

(4) 552.213-73, Evaluation-Commercial Items (Multiple Award Schedule), in multiple award schedule solicitations. Use this provision instead of FAR 52.212-2.

(b) *Use of required provisions and clauses.* Use only those provisions and clauses prescribed in this part. Unless the use of a provision or clause prescribed elsewhere in the GSAR is consistent with customary commercial practice for the item being acquired, disregard contrary instructions. Provisions and clauses prescribed in this part will be revised to reflect the applicability of new statutes and executive orders.

(c) *Discretionary use of GSAR provisions and clauses.* Consistent with the limitations contained in FAR 12.302(c), include in solicitations and contracts by addendum other GSAR provisions and clauses.

(d) *Use of additional provisions and clauses.* The Senior Procurement Executive must approve the use of a provision or clause that is either not:

(1) Prescribed in the FAR or GSAR for use in contracts for commercial items.

(2) Consistent with customary commercial practice.

[64 FR 37210, July 9, 1999, as amended at 65 FR 41378, July 5, 2000]