

(End of figure)

(d) Insert the clause at 552.215-72, Price Adjustment—Failure to Provide Accurate Information, in solicitations and contracts under the MAS program.

(e) You should use Alternate IV of FAR 52.215-21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications, to provide for submission of information other than cost or pricing data for MAS contracts. To provide for uniformity in requests under the MAS program, you should insert the following in paragraph (b) of the clause:

(1) Information required by the clause at 552.243-72, Modifications (Multiple Award Schedule).

(2) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(3) By submitting a request for modification, the Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before agreeing to a modification, books, record, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to determine the reasonableness of price(s). Access does not extend to Contractor's cost or profit information or other data related solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

[64 FR 37214, July 9, 1999, as amended at 65 FR 11247, Mar. 2, 2000]

### Subpart 515.5—Preaward, Award, and Postaward Notifications, Protests, and Mistakes

#### 515.506 Postaward debriefing of offerors.

For purposes of determining the date of receipt of a request for a post award debriefing, GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Request received after 4:30 p.m. will be considered received the following business day.

#### Subpart 515.70—Use of Samples

##### 515.7002 Procedures.

(a) *Unsolicited samples.* The reference to FAR 14.404-2(d) in FAR 14.202-4(g) does not apply.

However, qualifications in the proposal that are at variance with the Government's

requirements, constitute deficiencies. Resolve these as provided in FAR 15.306.

(b) *Solicitation requirements.* (1) Use the clause at FR 52.214-20. The second sentence in paragraph (c) of the clause does not apply. Substitute a sentence substantially as follows:

Failure of the bid samples to conform to all the required characteristics listed in the solicitation constitutes a deficiency in the proposal (see FAR 15.306).

(2) In addition to listing subjective characteristics that you cannot adequately describe in the specification, you may list and evaluate objective characteristics. To include objective characteristics, you must determine that examination of such characteristics is essential to the acquisition of any acceptable product. Base your determination on past experience or other valid considerations.

(c) FAR 52.215-1(c)(3) applies to samples received after the time set for receipt of offers.

## PART 516—TYPES OF CONTRACTS

### Subpart 516.2—Fixed Price Contracts

Sec.

516.203-4 Contract clauses.

### Subpart 516.5—Indefinite-Delivery Contracts

516.506 Solicitation provisions and contract clauses.

### Subpart 516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

516.603 Letter contracts.

516.603-3 Limitations.

AUTHORITY: 40 U.S.C. 121(c).

SOURCE: 64 FR 37218, July 9, 1999, unless otherwise noted.

### Subpart 516.2—Fixed Price Contracts

#### 516.203-4 Contract clauses.

(a) *Multiple award schedules.* Do not use FAR 52.216-2, 52.216-3, or 52.216-4 in negotiated acquisitions based on discounts from established commercial catalogs or pricelists. Instead, use:

(1) 552.216-70, Economic Price Adjustment—FSS Multiple Award Schedule

## General Services Administration

516.603-3

Contracts, in a 1-year solicitation or contract.

(2) 552.216-70 (Alternate I) in multiyear solicitations and contracts.

(b) *Stock or Special Order Program Contracts*. In multiyear solicitations and contracts, after making the determination required by FAR 16.203-2, use 552.216-71, Economic Price Adjustment-Stock and Special Order Program Contract, or a clause prepared as authorized in paragraph (a)(2)(ii) of this subsection.

(1) If the contract includes one or more options to extend the term of the contract, use the clause with its Alternate I or a clause substantially the same as 552.216-71 with its Alternate I suitably modified.

(2) In a contract requiring a minimum adjustment before the price adjustment mechanism is effectuated, use the basic clause with Alternate II or with Alternate I and Alternative II.

(3) If the Producer Price Index is not an appropriate indicator for price adjustment, modify the clause to use an alternate indicator for adjusting prices. Similarly, if other aspects of 552.216-71 are not appropriate, use an alternate clause following established procedures.

(c) *Adjustments based on cost indexes of labor or material*. (1) If you decide to provide for adjustments based on cost indexes of labor or material, prepare a clause that defines each of the following elements:

(i) The type of labor and/or material subject to adjustment.

(ii) The labor rates, including any fringe benefits and/or unit prices of materials that may be increased or decreased.

(iii) The index(es) that will be used to measure changes in price levels and the base period or reference point from which changes will be measured.

(iv) The period during which the price(s) will be subject to adjustment.

(2) The contracting director must approve use of this clause.

## Subpart 516.5—Indefinite-Delivery Contracts

### 516.506 Solicitation provisions and contract clauses.

(a) In solicitations and contracts for stock or special order program items, when the contract authorizes FSS and other activities to issue delivery or task orders, insert the clause at 552.216-72, Placement of Orders. If only FSS will issue delivery or task orders, insert the clause with its Alternate I.

(b) In solicitations and contracts for single or multiple award schedule program items, insert the clause at 552.216-72, Placement of Orders, with its Alternate II.

(c) Use 552.216-72, Placement of Orders, Alternate III, instead of Alternate II in solicitations and contracts for—

(1) Federal Supply Schedule 70;

(2) The Consolidated Schedule containing information technology Special Item Numbers; and

(3) Federal Supply Schedule 84.

(d) In solicitations and contracts for Federal Supply Schedules for recovery purchasing (See 538.7102), use 552.216-72, Placement of Orders, Alternate IV, instead of Alternate II.

(e) If the clause at 552.216-72 is prescribed, insert the provision at 552.216-73, Ordering Information, in solicitations for stock items and in other FSS solicitations. Use 552.216-73 Alternate I when 552.216-72 Alternate I is prescribed. Use 552.216-73 Alternate II when 552.216-72 Alternate II, Alternate III, or Alternate IV are prescribed.

[64 FR 37218, July 9, 1999, as amended at 68 FR 24378, May 7, 2003; 69 FR 28065, May 18, 2004; 72 FR 4652, Feb. 1, 2007; 73 FR 54338, Sept. 19, 2008]

## Subpart 516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

### 516.603 Letter contracts.

#### 516.603-3 Limitations.

##### *Architect-Engineer (A-E) Services*

(a) *Requirement for a price proposal*. Before you award a letter contract, the proposed A-E must provide a price proposal for the non-design effort.

(b) *Contents of each letter contract.* You must include the following information in the letter contract:

(1) The scope. If you include the design effort, only authorize the A-E to perform those services that are independent of the design effort (for example, feasibility studies, existing facility surveys or site investigation, etc.). Do not authorize the A-E to begin the design effort before the letter contract is definitized.

(2) A definitization schedule. Include dates for each of the following:

(i) Submission of the design fee proposal.

(ii) Start of negotiations.

(iii) Definitization. This date must be no later than 90 days after the date of the letter contract.

(3) A limitation on the Government's liability for the non-design effort to be performed under the contract. Insert this amount in FAR 52.216-24, Limitation of Government Liability.

(c) *Unilateral price decision.* If you must issue a unilateral price decision, the maximum contract amount must not exceed a reasonable price for the excludable items plus the 6 percent statutory fee limitation for the project.

## PART 517—SPECIAL CONTRACTING METHODS

### Subpart 517.1—Multiyear Contracting

Sec.

517.109 Contract clauses.

#### Subpart 517.2—Options

17.200 Scope of subpart.

17.202 Use of options.

17.203 Solicitations.

17.207 Exercise of options.

17.208 Solicitation provisions and contract clauses.

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

SOURCE: 64 FR 37218, July 9, 1999, unless otherwise noted.

### Subpart 517.1—Multiyear Contracting

#### 517.109 Contract clauses.

Use of FAR 52.217-2, Cancellation Under Multi-year Contracts, is optional in multiyear contracts author-

ized by 40 U.S.C. 490(a)(14) for maintenance and repair of fixed equipment in federally-owned buildings and services and 40 U.S.C. 481(a)(3) for public utility services.

## Subpart 517.2—Options

### 517.200 Scope of subpart.

(a) This subpart applies to all GSA contracts for supplies and services, including:

(1) Services involving construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property.

(2) Architect-engineer services.

(b) If a requirement in this subpart is inconsistent with FAR 17.2, this subpart takes precedence.

### 517.202 Use of options.

(a) *Supplies or services.* (1) You should use options when they meet one or more of the following objectives:

(i) Reduce procurement lead time and associated costs.

(ii) Ensure continuity of contract support.

(iii) Improve overall contractor performance.

(iv) Facilitate longer term contractual relationships with those contractors that continually meet or exceed quality performance expectations.

(2) An option is normally in the Government's interest in the following circumstances:

(i) You anticipate a need for additional supplies or services during the contract term.

(ii) Multiyear contracting authority is not available or its use is inappropriate and you anticipate a need for additional supplies or services beyond the initial contract term.

(iii) There is a need for continuity of supply or service support.

(iv) Funds are not available for the entirety of the Government's needs, but are likely to become available during the contract term.

(v) The initial contract will be used to evaluate the performance of an emerging small business.