

General Services Administration

538.7001

538.273 Contract clauses.

(a) *Multiple award schedules.* Insert in solicitations and contracts:

(1) 552.238-70, Identification of Electronic Office Equipment Providing Accessibility for the Handicapped, if you include electronic office equipment items.

(2) 552.238-71, Submission and Distribution of Authorized FSS Schedule Pricelists.

(i) Use Alternate I, in solicitations and contracts for—

(A) Federal Supply Schedule 70;

(B) The Consolidated Schedule contracts containing information technology Special Item Numbers;

(C) Federal Supply Schedule 84; and

(D) Federal Supply Schedules for recovery purchasing (see 538.7102), use Alternate I.

(ii) If GSA is not prepared to accept electronic submissions for a particular schedule delete—

(A) The paragraph identifier “(i)” in (b)(1) and the word “and” at the end of paragraph (b)(1)(i); and

(B) Paragraphs (b)(1)(ii) and (b)(3).

(3) 552.238-72, Identification of Products That Have Environmental Attributes.

(4) 552.238-73, Cancellation.

(b) *Multiple and single award schedules.* Insert in solicitations and contracts:

(1) 552.238-74, Industrial Funding Fee and Sales Reportings.

(2) 552.238-75, *Price Reductions.* Use Alternate I in solicitations and contracts for—

(i) Federal Supply Schedule 70;

(ii) The Consolidated Schedule contracts containing information technology Special Item Numbers;

(iii) Federal Supply Schedule 84; and

(iv) Federal Supply Schedules for recovery purchasing (see 538.7102).

[64 FR 37227, July 9, 1999, as amended at 68 FR 24378, May 7, 2003; 68 FR 41288, July 11, 2003; 68 FR 52128, Sept. 2, 2003; 72 FR 4652, Feb. 1, 2007; 73 FR 54338, Sept. 19, 2008]

Subpart 538.70—Cooperative Purchasing

SOURCE: 68 FR 24378, May 7, 2003, unless otherwise noted.

538.7000 Scope of subpart.

This subpart prescribes policies and procedures that implement statutory provisions authorizing non-federal organizations to use—

(a) Federal Supply Schedule 70;

(b) The Consolidated Schedule contracts containing information technology Special Item Numbers (SINs); and

(c) Federal Supply Schedule 84.

[73 FR 54338, Sept. 19, 2008]

538.7001 Definitions.

Ordering activity (also called “ordering agency” and “ordering office”) means an eligible ordering activity (see 552.238-78) authorized to place orders under Federal supply schedule contracts.

Schedule 70, as used in this subpart, means Schedule 70 information technology contracts, and Consolidated Products and Services Schedule contracts containing information technology SINs. The Consolidated Products and Services Schedule is a compilation of multiple individual Federal Supply Schedules; therefore, only the SINs that fall under Schedule 70 of the Consolidated Products and Services Schedule will apply to Cooperative Purchasing. No other Schedules, or SINs, containing information technology outside of Schedule 70 SINs, and Consolidated Products and Services Schedule contracts containing Schedule 70 SINs, will apply.

Schedule 84 means the Federal Supply Schedule for alarm and signal systems, facility management systems, fire-fighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as contained in Federal Supply Classification Code Group 84 or any amended or subsequent version of that Federal supply classification group).

State and local government entities, as used in this subpart, means the states of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges

and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative and judicial departments. The term does not include contractors of, or grantees of, State or local governments.

(1) *Local educational agency* has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(2) *Institution of higher education* has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) *Tribal government* means—

(i) The governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(ii) Any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

[68 FR 24378, May 7, 2003, as amended at 73 FR 54338, Sept. 19, 2008]

538.7002 General.

(a) 40 U.S.C. 501, (the Act) authorizes the Administrator of General Services to procure and supply personal property and nonpersonal services for the use of Executive agencies. Under 40 U.S.C. 502, the goods and services available to executive agencies are also available to mixed ownership Government corporations, establishments within the legislative or judicial branches of Government (excepting the Senate, House of Representatives, Architect of the Capitol, and any activities under the direction of the Architect of the Capitol), the District of Columbia, and Qualified Non-profit Agencies.

(b) Section 211 of the E-Government Act of 2002 amends 40 U.S.C. 502 to authorize the Administrator of General Services to provide for use of certain Federal supply schedules of the GSA by

a State or local government, which includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

(c) Pub.L. 110-248, The Local Preparedness Acquisition Act, authorizes the Administrator of General Services to provide for the use by state or local governments of Federal Supply Schedules of the General Services Administration (GSA) for alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as contained in Schedule 84).

(d) State and local governments are authorized to procure from Schedule 70 contracts, Consolidated Schedule contracts containing information technology SINS, and Schedule 84 contracts. A listing of the participating contractors and SINS for the products and services that are available through Schedule 70 contracts, the Consolidated Schedule contracts containing information technology SINS, and Schedule 84 contracts, is available in GSA's Schedules e-Library at www.gsa.gov/elibrary. Click on Schedules e-Library, and under Cooperative Purchasing, click on "View authorized vendors." The contractors and the products and services available for Cooperative Purchasing will be labeled with the Cooperative Purchasing icon.

[68 FR 24378, May 7, 2003, as amended at 73 FR 54338, Sept. 19, 2008]

538.7003 Policy.

Preparing solicitations when schedules are open to eligible non-federal entities. When opening Schedule 70, the Consolidated Schedule containing information technology SINS, and Schedule 84, for use by eligible non-federal entities, the contracting officer must make minor modifications to certain Federal Acquisition Regulation and GSAM provisions and clauses in order to make clear distinctions between the rights and responsibilities of the U.S. Government in its management and regulatory capacity pursuant to which it awards schedule contracts and fulfills associated Federal requirements versus