

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 8, 13, 38, and 51****[FAR Case 96-602]****RIN 9000-AH29****Federal Acquisition Regulation; ADP/
Telecommunications Federal Supply
Schedules**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) with respect to GSA's Federal Supply Schedules program. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Comments should be submitted on or before December 9, 1996 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets, NW, Room 4037, Washington, DC 20405.

Please cite FAR case 96-602 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 96-602.

SUPPLEMENTARY INFORMATION:**A. Background**

This proposed rule amends the FAR to reflect the reassignment of Federal Supply Schedule contracts for ADP/Telecommunications to GSA's Federal Supply Service; to add new coverage on the GSA Advantage! program; to clarify when ordering offices should seek price reductions; and to implement changes pertaining to procedures when placing orders above the maximum order.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely updates and clarifies guidance for Government agencies regarding use of the GSA Federal Supply Schedule program. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 96-602), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose any additional reporting or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8, 13, 38, and 51

Government procurement.

Dated: October 2, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 8, 13, 38, and 51 be amended as set forth below:

1. The authority citation for 48 CFR Parts 8, 13, 38, and 51 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. 2301 to 2331; and 42 U.S.C. 2473(c).

**PART 8—REQUIRED SOURCES OF
SUPPLIES AND SERVICES**

2. Section 8.401 is revised to read as follows:

8.401 General.

(a) The Federal Supply Schedule program, directed and managed by the General Services Administration (GSA), provides Federal agencies with a simplified process for obtaining commonly used supplies and services at prices associated with volume buying. Indefinite delivery contracts (including requirements contracts) are established with commercial firms to provide supplies and services at stated prices for given periods of time. Similar systems of schedule-type contracting are used for military items managed by the

Department of Defense. These systems are not included in the Federal Supply Schedule program covered by this subpart.

(b) The GSA schedule contracting office issues publications, titled Federal Supply Schedules, containing the information necessary for placing delivery orders with schedule contractors. Ordering offices issue delivery orders directly to the schedule contractors for the required supplies and services. Ordering offices may request copies of schedules by completing GSA Form 457, FSS Publications Mailing List Application, and mailing it to the GSA Centralized Mailing List Service (7CAFL), P.O. Box 6477, Fort Worth, Texas, 76115. Copies of GSA Form 457 also may be obtained from the above address.

(c) GSA offers an on-line shopping service called "GSA Advantage!" that enables ordering offices to search product specific information (i.e., NSN, part number, common name), review delivery options, place orders directly with contractors (or ask GSA to place orders on the agency's behalf), and pay contractors for orders using the Governmentwide commercial purchase card (or pay GSA). Ordering offices may access the "GSA Advantage!" shopping service by connecting to Internet and using a web browser to connect to the GSA Home Page (<http://www.gsa.gov>, or <http://www.fss.gsa.gov>). For more information or assistance, contact GSA at Internet e-mail address: gsa.advantage@gsa.gov.

3. Section 8.404 is amended by revising paragraphs (a) and (b), and the heading of paragraph (c) to read as follows:

8.404 Using schedules.

(a) *General.* When agency requirements are to be satisfied through the use of Federal Supply Schedules as set forth in this subpart 8.4, the policies and procedures of FAR part 13 do not apply. Orders placed, pursuant to a Multiple Award Schedule (MAS), using the procedures in this subpart 8.4 are considered to be issued pursuant to full and open competition (see 6.102(d)(3)). Therefore, when placing orders under Federal Supply Schedules, ordering offices need not seek further competition, synopses the requirement, make a separate determination of fair and reasonable pricing, or consider small business set-asides in accordance with subpart 19.5.

(b) *Ordering procedures for optional use schedules—(1) Orders at or below the micro-purchase threshold.* Ordering offices can place orders at or below the micro-purchase threshold with any

Federal Supply Schedule contractor. GSA has already determined the prices of items under these contracts to be fair and reasonable.

(2) *Orders exceeding the micro-purchase threshold and not exceeding the maximum order threshold.* Before placing an order, ordering offices should consider reasonably available information about products offered under Multiple Award Schedule (MAS) contracts by using the "GSA Advantage!" on-line shopping service, or if an automated information system is not available, by reviewing the catalog, including price lists, of at least 3 schedule contractors.

(3) *Orders exceeding the maximum order threshold.* Each schedule contract has an established maximum order threshold. This threshold represents the point where it is advantageous for the ordering office to seek a price reduction. Before placing an order that exceeds the maximum order threshold, ordering offices shall follow the procedures in paragraph (b)(2) of this section; and—

(i) Review the catalogs, including price lists, of additional schedule contractors, if appropriate, considering the dollar value of the proposed order; and

(ii) Seek a further reduction in price and/or more favorable delivery terms before selecting the contractor to receive the order.

(4) *Blanket purchase agreements (BPAs).* All schedule contracts contain BPA provisions. Ordering offices are encouraged to use BPAs to establish accounts with contractors to fill recurring requirements. BPAs should address the frequency of ordering and invoicing, discounts, delivery locations and times. BPAs may be used for any size orders.

(5) *Price reductions.* In addition to the circumstances outlined in paragraph (b)(3) of this section, there may be instances where ordering offices will

find it advantageous to request a price reduction. For example, when the ordering office finds a schedule product elsewhere at a lower price or when a blanket purchase agreement (BPA) is being established to fill recurring requirements, requesting a price reduction could be advantageous. The potential volume of orders under these agreements, regardless of the size of the individual order, may offer the ordering office the opportunity to secure higher discounts. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual agency for a specific order or under a BPA.

(6) *Best value selection for orders exceeding the micro-purchase threshold.* Orders should be placed with the schedule contractor that can provide an item which represents the best value. In selecting the item representing the best value, the ordering office may consider—

(i) Special features of one item which are required in effective program performance and which are not provided by comparable items;

(ii) Trade in considerations;

(iii) Probable life of the item selected as compared with that of a comparable item;

(iv) Warranty considerations;

(v) Maintenance availability;

(vi) Past performance; and

(vii) Environmental and energy efficiency considerations.

(7) *Small business.* For orders exceeding the micro-purchase threshold, ordering offices should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

(8) *Documentation.* Orders should be documented, at a minimum, by identifying the contractor the item was purchased from, the item purchased, and the amount paid.

(c) *Ordering procedures for mandatory use schedules.* * * *

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PART 13—SIMPLIFIED ACQUISITION PROCEDURES

4. Section 13.202 is amended by revising paragraph (c)(3) to read as follows:

13.202 Establishment of blanket purchase agreements (BPA's).

* * * * *

(c) * * *

(3) Federal Supply Schedule contractors if not inconsistent with the terms of the applicable schedule or other contract.

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PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

5. Section 38.000 is revised to read as follows:

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 not a part of the Federal Supply Schedule program.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

51.103 [Amended]

6. Section 51.103 is amended by removing paragraph (c) and redesignating paragraph (d) as (c).

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