



GSA Office of the Chief Acquisition Officer

GSA Acquisition Letter V-08-05

03 JUL 2008

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM:

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SENIOR PROCUREMENT EXECUTIVE
OFFICE OF THE CHIEF ACQUISITION OFFICER

SUBJECT :

Cooperative Purchasing - Acquisition of Security and Law Enforcement Related Goods and Services (Schedule 84) by State and Local Governments

1. Purpose. This Acquisition Letter provides implementation of P.L. 110-248, The Local Preparedness Acquisition Act which authorizes use by state or local governments of Schedule 84.

2. Background. P.L. 110-248, The Local Preparedness Acquisition Act was signed and became effective June 26, 2008. The 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). This procurement authority will help State and local governments reduce the administrative costs of negotiating their own contracts by authorizing them to use the pre-negotiated contracts of GSA.

3. Effective Date. Immediately.

4. Termination Date. One year unless cancelled or extended, or upon incorporation into the General Services Administration Acquisition Manual (GSAM), whichever occurs first.

5. Applicability. This Acquisition Letter applies to all GSA contracting activities.

6. References: GSAM 511.204, 516.506, 532.206, 532.7003, 538, 546.710, 552.238-78

7. Policy

a) P.L. 110-248, The Local Preparedness Acquisition Act, which was signed and became effective June 26, 2008, is hereby implemented in the GSAM.

b) Pending the Interim Rule the following GSAR clauses shall be incorporated into Schedule 84 Supply Schedule contracts:

- GSAR 552.211-75, Preservation, Packaging and Packing with Alternate I
- GSAR 552.211-77, Packing List Alternate I
- GSAR 552.216-72, Placement of Orders, Alternate III
- GSAR 552.216-73, Ordering Information Alternate II
- GSAR 552.232-8, Discounts for Prompt Payments Alternate I –
- GSAR 552.232-79, Payment by Credit Card
- GSAR 552.232-81, Payments by Non-Federal Ordering Activities
- GSAR 552.238-71, Submission and Distribution of Authorized Federal Supply Schedule Pricelists
- GSAR 552.238-75, Price Reductions Alternate I
- GSAR 552.238-77 Definition (Federal Supply Schedule)
- GSAR 552.238-78, Scope of Contract (Eligible Ordering Activities)
- GSAR 552.238-79, Use of Federal Supply Schedule Contracts by Certain Entities-Cooperative Purchasing
- GSAR 552.246-73, Warranty -- Multiple Award Schedules Alternate I

c) Replace 538.7003 with the following:

538.7003 Policy.

Preparing solicitations when schedules are open to eligible non-federal entities. When opening Schedule 70 and the Consolidated Products and Services 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 the rights and responsibilities of eligible ordering activities placing orders to fulfill agency needs. Accordingly, the contracting officer is authorized to modify the following FAR provisions/clauses to delete "Government" or similar language referring to the U.S. Government and substitute "ordering activity" or similar language when preparing solicitations and contracts to be awarded under Schedule 70 and the Consolidated Products and Services Schedule containing information technology SINS, and Schedule 84. When such changes are made, the word "(DEVIATION)" shall be added at the end of the title of the provision or clause. These clauses include but are not limited to:

- (a) 52.212-4, Contract Terms and Conditions—Commercial Items.
- (b) 52.216-18, Ordering.
- (c) 52.216-19, Order Limitations.
- (d) 52.229-1, State and Local Taxes.
- (e) 52.229-3, Federal, State, and Local Taxes.
- (f) 52.232-7, Payments Under Time-and-Materials and Labor-Hour Contracts.
- (g) 52.232-17, Interest.
- (h) 52.232-19, Availability of Funds for the Next Fiscal Year.
- (i) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration.
- (j) 52.232-36, Payment by Third Party.
- (k) 52.237-3, Continuity of Services.
- (l) 52.246-4, Inspection of Services-Fixed Price.
- (m) 52.246-6, Inspection—Time-and-Material and Labor- Hour.
- (n) 52.247-34, F.O.B. Destination.
- (o) 52.247-38, F.O.B. Inland Carrier Point of Exportation.

d) State or local government entities, as defined at GSAM 538.7001, are authorized to use Schedule 84 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).

e) Use of Schedule 84 by State and local governments is optional. Participation by Schedule 84 contractors is voluntary. Even after contractors have volunteered to participate, they retain the right to decline orders from State and local governments on a case-by-case basis. The Schedule 84 contract shall include all of the required GSAR and modified FAR clauses before orders are placed against the contract.

f) Replace 552.238-78 with the following:

552.238-78 Scope of Contract (Eligible Ordering Activities). (DEVIATION)

As prescribed in 538.7004(b) insert the following clause:

SCOPE OF CONTRACT (ELIGIBLE ORDERING ACTIVITIES) (MAY 2004) (DEVIATION JULY 2008)

(a) This solicitation is issued to establish contracts which may be used on a nonmandatory basis by the agencies and activities named below, as a source of supply for the supplies or services described herein, for domestic and/or overseas delivery. For Special Item Number 132-53, Wireless Services ONLY, limited geographic coverage (consistent with the Offeror's commercial practice) may be proposed.

(1) Executive agencies (as defined in FAR Subpart 2.1) including nonappropriated fund activities as prescribed in 41 CFR 101-26.000;

(2) Government contractors authorized in writing by a Federal agency pursuant to FAR 51.1;

(3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act);

(4) Federal Agencies, including establishments in the legislative or judicial branch of government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol).

(5) The District of Columbia;

(6) Tribal governments when authorized under 25 USC 450j(k);

(7) Qualified Nonprofit Agencies as authorized under 40 USC 502(b); and

(8) Organizations, other than those identified in paragraph (d) of this clause, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.

(b) *Definitions. Domestic delivery* is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. territories.

(c) Offerors are requested to check one of the following boxes:

- Contractor will provide domestic and overseas delivery.
- Contractor will provide overseas delivery only.
- Contractor will provide domestic delivery only.

(d) The following activities may place orders against information technology schedule 70 contracts and Consolidated Products and Services Schedule contracts containing information technology special item numbers, and Schedule 84 contracts, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities: State and local government, includes any state, local, regional or tribal government or any instrumentality thereof (including any local educational agency or institution of higher learning).

(e) Articles or services may be ordered from time to time in such quantities as may be needed to fill any requirement, subject to the Order Limitations thresholds which will be specified in resultant contracts. Overseas activities may place orders directly with schedule contractors for delivery to CONUS port or consolidation point.

(f)

(1) The Contractor is obligated to accept orders received from activities within the Executive branch of the Federal Government.

(2) The Contractor is not obligated to accept orders received from activities outside the Executive branch; however, the Contractor is encouraged to accept such orders. If the Contractor elects to accept such orders, all provisions of the contract shall apply, including clause 552.232-79, Payment by Credit Card. If the Contractor is unwilling to accept such orders, and the proposed method of payment is not through the Credit Card, the Contractor shall return the order by mail or other means of delivery within 5 workdays from receipt. If the Contractor is unwilling to accept such orders, and the proposed method of payment is through the Credit Card, the Contractor must so advise the ordering activity within 24 hours of receipt of order. (Reference clause 552.232-79, Payment by Credit Card.) Failure to return an order

or advise the ordering activity within the time frames of this paragraph shall constitute acceptance whereupon all provisions of the contract shall apply.

(g) The Government is obligated to purchase under each resultant contract a guaranteed minimum of \$2,500 (two thousand, five hundred dollars) during the contract term.

Additional Information: A General Services Administration Acquisition Regulation (GSAR) Interim Rule is in process. If you have questions regarding this Acquisition Letter, please contact Mr. William Clark at 202-219-1813.