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**Your Source for VA FSS News**

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**March 2012**  
 Issue 33

## News You Can Use

### Federal Acquisition Regulation, Federal Acquisition Circular 2005-55

<sup>1</sup> On January 3, 2012, the Department of Defense, the General Service Administration, and the National Aeronautics and Space Administration issued Federal Acquisition Circular (FAC) [2005-55](#) in the Federal Register, which implemented final rules and other revisions to the Federal Acquisition Regulation (FAR). The list of rules published in FAC 2005-55 can be seen below.

**List of Rules in FAC 2005-55**

ITEM	SUBJECT	FAR CASE ADDRESSED
I	Preventing Abuse of Interagency Contracts	<a href="#">2008-032</a>
II	Transition to the System for Award Management (SAM)	<a href="#">2011-021</a>
III	Brand-Name Specifications	<a href="#">2005-037</a>
IV	Time-and-Materials and Labor-Hour Contracts for Commercial Items	<a href="#">2009-043</a>
V	Public Access to the Federal Awardee Performance and Integrity Information System	<a href="#">2010-016</a>
VI	Updated Financial Accounting Standards Board Accounting References	<a href="#">2010-005</a>
VII	Technical Amendments	

Some of the highlights that FAC 2005-55 amends in the FAR can be seen below:

- **Item I – Interagency Contracts**  
 This final rule amends FAR subpart [17.5](#) to make it clear that this regulation only applies to interagency acquisitions when an agency needing supplies or services obtains them using another agency's contract; or when an agency uses another agency to provide acquisition assistance, such as awarding and administering a contract, a task order, or delivery order. In addition, the new rule requires the servicing agency to prepare a business-case analysis that must be approved in accordance with the [Office of Federal Procurement Policy business case guidance](#). Please note that this rule does **NOT** apply to FSS orders under \$500,000.
- **Item II – SAM Transition**  
 The Integrated Acquisition Environment (IAE) systems are being transitioned to a new System for Award Management (SAM) architecture. This effort will transition the Central Contractor Registration database, the Excluded Parties Listing System, and the Online Representations and Certifications Application to SAM. The FAR change will indicate that these IAE systems will now be accessed through <http://www.acquisition.gov>.

- **Item III – Brand Name Specifications**  
 The final rule clarifies that when applicable, the documentation or justification and posting requirements for brand name items only apply to the portion of the acquisition that requires the brand name item. The final rule also adds a requirement to screen the brand name documentation or justification for contractor proprietary data. Further, the final rule requires the Contracting Officer to post the justifications for an order peculiar to one manufacturer under Indefinite-Delivery contracts.
- **Item IV – T&M and LH Contracts**  
 This final rule amends the FAR to implement recommendations from the Government Accountability Office to:
  - (1) Ensure that time-and-materials (T&M) and labor-hour (LH) contracts are used to acquire commercial services only when no other contract type is suitable, and
  - (2) Instill discipline in the determination of contract type with a view toward managing the risk to the Government.
 Furthermore, the requirement for a determination and findings was added to FAR [8.404](#) when no other contract type is suitable. FAR 8.404 was also amended to address increases in the order ceiling price of T&M and LH contracts, to more closely conform to the language at FAR [12.207](#).
- **Item V – Public Access to FAPIIS**  
 This rule amends the FAR to implement a section of the Supplemental Appropriations Act 2010, which requires that the information in the Federal Awardee Performance and Integrity Information System (FAPIIS), excluding past performance reviews, be made publicly available. In order to provide contractors time to review the information in FAPIIS, the rule grants a fourteen calendar day delay before making the data available to the public. Contractors have seven calendar days within those fourteen calendar days to assert a disclosure exemption under the Freedom of Information Act.
- **Item VI – Accounting References**  
 This final rule amends FAR sections 31.205-11, 31.205-36, 52.204-10, 52.212-5, and 52.213-4 to update the references with the applicable accounting standards.
- **Item VII – Technical Amendments**  
 Editorial changes were made in FAR 4.603, 8.402, 8.405-5, 8.703, 15.402, 15.403-1, 19.102, 19.402, 22.404-1, 22.1304, 22.1306, 23.205, 23.401, 28.203-3, 42.203, 52.202-1, 52.212-3, 52.219-22, and 52.228-11.
  - **Additional Guidance on How FAC 2005-55 Impact's VA & GSA Schedules**

<sup>1</sup> [Federal Acquisition Circular 2005-55](#). Accessed on February 27, 2012.

# Training Topic

## Economic Price Adjustment (EPA) Clause

### 1) What is the EPA Clause and its purpose under the VA FSS program?

Through clause [552.216-70](#), the EPA clause allows VA FSS contractors to request price increases and decreases in accordance with changes made to their commercial prices. In order to protect the Government from significant price fluctuations, the EPA clause details the parameters that contractors must meet to request price increases under their contract. Please note that all price decreases are handled in accordance with the provisions of the Price Reduction Clause, which was discussed in the [February edition](#) of the FSS eNewsletter.

### 2) What conditions must be met in order for a VA FSS contractor to request a price increase?

- The contractor increased the price(s) in their commercial pricelist/catalog (either from a reissue or other modification) that was used as the basis for the contract award;
- The increase was requested before the last 60 days of the contract period;
- At least 30 days have passed from the last requested price increase(s); and
- The awarded tracking customer's (TC) price was increased, and the proposed price does not disturb the established discount relationship (i.e. TC ratio).

**\*\*Please note that all of the conditions referenced above do not always apply to brand name drugs (i.e. SIN 42-2A) under the [651B Pharmaceutical Schedule](#) due to the statutory requirements of under Section 603 of the Veterans Healthcare Act of 1992 (i.e. Public Law 102-585). Also, different terms and conditions apply to the [621I Professional & Allied Healthcare Services Schedule](#) \*\***

### 3) What documents should be submitted with a VA FSS contractor's price increase modification request?

- A copy of the contractor's commercial catalog/pricelist that shows the price increase and the effective date for commercial customers;
- Updated Commercial Sales Practice disclosures regarding the contractor's commercial pricing practices due to the reissued or modified catalog/pricelist; and
- Documentation supporting the reasonableness of the requested price increase.

### 4) If a VA FSS contractor submits a price increase modification request in accordance with the EPA clause, what are the Government's options?

When a price increase modification request is submitted, the Government reserves the right to exercise one of the following options:

- Accept the contractor's request for a price increase when all of the required conditions are satisfied
- Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or
- Decline the request and remove the product(s) from the applicable contract pursuant to the Cancellation Clause, 552.238-73.




- o Obtain a copy of the appropriate price increase modification form/package
- o View other contractor compliance requirements

# National News

## Recent Emergency & Disaster Declarations

President Obama made [three disaster recovery declarations](#) in February 2012.

### MAJOR DISASTER DECLARATIONS

Number	Date	State	Disaster Type	Designated Counties
<a href="#">4052</a>	2/01	AL	Severe Storms, Tornadoes, Straight-Line Winds & Flooding	
<a href="#">4053</a>	2/01	UT	Severe Storms	
<a href="#">4054</a>	2/02	AK	Severe Storms	

Under the [Disaster Recovery Program](#), state and local Governments may purchase products/services off of FSS contracts in order to facilitate the recovery from a major disaster. In addition, state and local Government entities may use FSS contracts to purchase products and services in advance of a major disaster declared by the President. State and local Governments are responsible for ensuring that the products/services purchased are to be used to facilitate a recovery.

Participation in the Disaster Recovery Program is optional for FSS contractors. As such, FSS contractors are **NOT** required to accept orders from state and local Governments.

# Rules & Tools

## Training Opportunities

Expanding your business into the federal marketplace can be lucrative, and provide numerous networking and growth opportunities. However, winning a VA FSS contract also means complying with several laws and regulations that are truly unique to the federal Government. Many new VA FSS contractors, especially small businesses, are unprepared for the rules and regulations that they must follow, which can lead to costly errors and possibly the cancelation of the VA FSS contract.

The training opportunity identified below will help FSS stakeholders, such as contractors and personnel at different ordering facilities, become familiar with the regulations that apply under the FSS.

**Doing Business with GSA/VA:** A five-part series on accessing opportunities under the FSS program.

**Cost:** Free

**Course Description:**

Part I: [Overview](#)

Part II: [Contracting Options](#)

Part III: [The Mentor Protégé Program](#)

Part IV: [Sustainability in Procurement](#)

Part V: [Marketing to the Federal Government](#)

**For more information and additional training opportunities, please visit the [GSA Training for Small Business page!](#)**

## VA FSS Working for You

### VA FSS in Action

Recently, there have been two “hot” topics that we wanted to address. The first is [FedBid](#). We have received numerous calls from concerned vendors about this reverse auction provider. Please know that FedBid is **NOT** mandatory, even though some customers may be representing it to industry as such. We have passed along your concerns to our VA Policy Office, who is working with the Veterans Health Administration to provide specific guidance to the VA acquisition community on how best to use reverse auction providers. If you have any concerns, please do not hesitate to let us know and to take the necessary actions to ensure that the integrity of your firm’s FSS contract remains intact.

The second issue deals with the [GSA Advantage](#) program and the use of Universal Product Codes (UPC). GSA made a change to their systems recently that required vendors to provide UPCs, when uploading their information into the GSA Advantage system. We have been in contact with GSA about the impact that this requirement has on the Schedules managed by VA and GSA is working to correct the issues for our programs and some of their own programs as well. Once we have more information on either of these topics, we will be sure to share.

Lastly, we wanted to give an update on the status of the NAC’s Industry Conference, and unfortunately, we still do not have firm dates. As mentioned before, another VA office is handling this action and they are working to coordinate the many demands of a program like this with a very busy calendar of events. Once the dates have been established, we will be updating our webpage and providing all current vendors a “save the date” notice.

As always, if you are experiencing any issues, please do not hesitate to contact Carole O’Brien, Director of the FSS Service, at 708-786-4957 and/or [Carole.O'Brien@va.gov](mailto:Carole.O'Brien@va.gov) or, Craig Robinson, Associate Deputy Assistant Secretary (ADAS) for National Healthcare Acquisitions, at 708-786-5157 and /or [Craig.Robinson@va.gov](mailto:Craig.Robinson@va.gov). Thank you for your continued support.

*“Quality is never an accident; it is always the result of intelligent effort.”*

**John Ruskin**

### 1<sup>st</sup> Quarter FY 2012 Sales Due

At this time, all FSS contractors should have reported their 1<sup>st</sup> quarter FY 2012 (i.e. October 1, 2011 – December 31, 2011) sales figures in accordance with contract [clause 552.238-74](#), Industrial Funding Fee (IFF) and Sales Reporting. Please note all FSS contractors are required to submit their sales data each quarter (even if no sales occurred under the contract) through the [VA sales portal](#). In order to avoid confusion and having an IFF payment returned, all sales figures should be reported **BEFORE** an IFF payment is submitted to our office (regardless of how the IFF is remitted).

- [Access the VA online sales reporting system](#)
- [View portal user guides](#)

For more information about the VA Sales Portal, best practices, and IFF payment, please visit the [Sales Reports & IFF](#) page online! Please direct all IFF and sales reporting related questions to the VA Sales Helpdesk at [FSSSales.ammhin@va.gov](mailto:FSSSales.ammhin@va.gov).

### Inquiry of the month...

**Inquiry:** Under the Disaster Recovery Program, can FSS contractors offer state and local Government entities additional price reductions? If so, will the spot discount trigger the Price Reduction Clause?

**Answer:** Yes, state and local Government entities may be granted additional [price reductions](#) under Disaster Recovery Purchasing by FSS contractors. However, the Price Reduction Clause will **NOT** be triggered if FSS contractors elect to offer state and local Government entities an additional pricing discount.

To submit an inquiry, please email your question to the FSS Helpdesk at [helpdesk.ammhinfss@va.gov](mailto:helpdesk.ammhinfss@va.gov).

### FSS Web Corner

On February 17, 2012, the Obama Administration launched BusinessUSA. By combining the information and services from ten different Government agencies, this portal is designed to help businesses of any size navigate and explore information about available federal programs through one simple to use and you wanted to know about available business opportunities is now available at a single click of a mouse! Visit [BusinessUSA](#) today...



### Did You Know...

The month of March represents National Women’s History Month, in which we pay tribute to women’s contributions in US history, the present day, as well as the future.<sup>1</sup> The origins of National Women’s History Month can be traced back to March 8, 1857, when women from New York City factories staged a protest over working conditions. International Women’s Day was first observed in 1909, but it wasn’t until 1981 that Congress established National Women’s History Week to be commemorated the second week of March. In 1987, Congress expanded the week to a month. You can learn more about National Women’s History Month and how VA honors its women in service, as well as women Veterans, by reviewing:

- [“Her Story”](#)
- [The programs and services](#) that are offered by VA for women Veterans
- A [Women’s History Month Quiz](#)

*“Let the generations know that women in uniform also guaranteed their freedom. That our resolve was just as great as the brave men who stood among us. And with victory our hearts were just as full and beat just as fast - that the tears fell just as hard - For those we left behind.”*

**Army Nurse WWII**

This quote is inscribed on the roof of the [Women in Military Service for America Memorial](#), which is the only major national memorial honoring all servicewomen and serves as the ceremonial entrance to Arlington Cemetery.

<sup>1</sup> [US Census Bureau](#). Accessed on February 28, 2012.

# Recently Awarded FSS Contracts

February 2012

## DRUGS, PHARMACEUTICALS & HEMATOLOGY RELATED PRODUCTS (SCHEDULE 65IB)

Company Name	Contract Number	Business Size	Socioeconomic Status
Taro Pharmaceuticals U.S.A., LLC.	V797P-2087D	Large	
Allergan Sales, LLC.	V797P-2094D	Large	
Johnson & Johnson on behalf of Vistakon	V797P-2112D	Large	
Eisai, Inc.	V797P-2106D	Large	

## MEDICAL EQUIPMENT & SUPPLIES (SCHEDULE 65IIA)

Company Name	Contract Number	Business Size	Socioeconomic Status
Biopro, Inc.	V797P-2089D	Small	
Medical Positioning, Inc.	V797P-2062D	Small	Woman Owned Business
First Hospital Products DBA First Healthcare Products	V797P-2102D	Small	
GE Healthcare, Formerly GE Medical Systems	V797P-2095D	Large	
DOC Development, Inc.	V797P-2103D	Small	Small Disadvantaged Business
Leica Microsystems	V797P-2082D	Large	
The Scale People, Inc.	V797P-2111D	Small	
LogicMark, LLC.	V797P-2092D	Small	
MEDTRONIC USA, Inc.	V797P-2110D	Large	

## PATIENT MOBILITY DEVICES (SCHEDULE 65IIF)

Company Name	Contract Number	Business Size	Socioeconomic Status
ROHO, Inc.	V797P-2052D	Small	
Care Solutions, LLC	V797P-2100D	Small	Woman Owned Business

## INVITRO DIAGNOSTICS, REAGENTS, TEST KITS & TEST SETS (SCHEDULE 65VII)

Company Name	Contract Number	Business Size	Socioeconomic Status
Krasyty's Medical & Surgical Supply, Inc.	V797P-2072D	Small	
Americare	V797P-2090D	Small	
Propper Manufacturing Company, Inc.	V797P-2098D	Small	

## PROFESSIONAL & ALLIED HEALTHCARE STAFFING SERVICES (SCHEDULE 621I)

Company Name	Contract Number	Business Size	Socioeconomic Status
Top Docs, Inc.	V797P-2093D	Small	
PROCEL Temporary Services	V797P-2096D	Small	Woman Owned Business

## MEDICAL LABORATORY TESTING & ANALYSIS SERVICES (SCHEDULE 621II)

Company Name	Contract Number	Business Size	Socioeconomic Status
United States Drug Testing Laboratories, Inc.	V797P-2097D	Small	

**\*\*Visit the [VA Schedule Programs](#) page for a complete listing of all VA Schedules\*\***

In order to obtain pricing information for all of the companies referenced above or any other FSS contractor, please review the [NAC Contract Catalog Search Tool \(CCST\)](#) or [GSA E-Library](#). If you have any questions/concerns or would like to learn more about a specific topic and/or issue, please feel free to contact the FSS Help Desk by phone at (708)786-7737 and/or by e-mail at [helpdesk.ammhinfss@va.gov](mailto:helpdesk.ammhinfss@va.gov).