

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAR Case 2007-G500, Rewrite of GSAR Part 517, Special Contracting Methods

1. **Purpose.** This order transmits a revision to the General Services Administration Acquisition Manual (GSAM).
2. **Background.** The General Services Administration (GSA) published a proposed rule in the Federal Register at 73 FR 32274 on June 6, 2008 to amend the General Services Administration Acquisition Regulation (GSAR) by eliminating out of date references and reorganizing the text to align with the Federal Acquisition Regulation (FAR). No comments were received on the proposed rule. The Case was put on hold due to the FAR Case on Interagency Acquisition which was being handled under GSAR Case 2011-G504. A second proposed rule was published in the Federal Register at 80 FR 34126 on June 15, 2015 due to the time lapse since the original proposed rule. No comments were received on the second proposed rule. The GSA published a final rule in the Federal Register at 81 FR 36422 on June 6, 2016.
3. **Effective date.** July 6, 2016.
4. **Explanation of changes.** The GSAM is amended as follows:

(a) Regulatory changes:

The final rule makes the following changes to the regulatory GSAR part 517. For full text changes see the attached document.

- GSAR 517.1 – Throughout the subpart “multiyear” is replaced with “multi-year” to align with the FAR.
- GSAR 517.109 – Updates the referenced statutes for multi-year contracts.
- GSAR 517.200 – Deletes paragraph (b) since the subpart cannot take precedence over the FAR without a deviation, and renumbers the paragraphs.
- GSAR 517.202 – Administrative edits are made to the text to align with the FAR and provide clarity.
- GSAR 517.203 – This subsection will be removed and reserved because the introduction text and paragraphs (a) and (b) are duplicative of the FAR 17.207 and GSAR 517.207.

- GSAR 517.207 – Deletes paragraph (a) as it unnecessarily repeats the FAR, and edits the remaining text for clarity on the documentation requirement for a decision to maintain a contractual relationship with a less than satisfactory contractor.
- GSAR 517.208 – Changes “FSS” to “FAS” and deletes reference to the Stock program.
- GSAR 552.217-70 – Corrects punctuation.

(b) Non-regulatory changes:

For full text changes see the attached document.

- GSAM 517.101 – Corrects the section number to align with FAR 17.101, *Authority*, updates the statutes referenced therein, and deletes the reference to the Information Technology Fund (40 U.S.C. 757(c)) since it has been repealed, which therefore removes the five year limitation for contracts made under this authority.
- GSAM 517.103 – Adds the definition of “fixed equipment in federally-owned buildings” referenced in 517.101.
- GSAM 517.204(a) – Deletes the general five year period of performance limitation for information technology (IT) contracts. The limitation on the period of performance for IT contracts was originally included in the GSAM as it was required in the Information Technology Fund (40 U.S.C. 757(c)). This fund was abolished along with the General Supply Fund and was replaced with the Acquisition Services Fund which no longer limits the period of performance for IT contracts. Limitations to the period of performance were added to this section for telecommunication contracts per GSA Order ADM P 5450.39D.
- A new paragraph was added at GSAM 517.204(b) to identify the ten year period of performance limitation for public utilities (40 U.S.C. 501(b)(1)(B)) and renumbers the remaining paragraphs.
- The original GSAM 517.204(b) (now 517.204(c)) - Adds the word “deviation” in front of “requests” to clarify the type of request.

5. **Cancellations and Rescissions:** None.



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GSAR Case 2007-G500
Re-write of GSAR Part 517, Special Contracting Methods,
Final Rule
Tab AA - GSAM/GSAR Text, Line-In/Line-Out

GSAM Baseline: Change 70 effective 03/29/2016

- Additions to baseline made by proposed rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by proposed rule are indicated by ~~strikethroughs~~
- Additions to baseline made by final rule are indicated by **[bold and underlined text in brackets]**
- Deletions to baseline made by final rule are indicated by ~~strikethroughs and underlined~~
- Five asterisks (*****) indicate that there are no revisions between the preceding and following sections
- Three asterisks (***) indicate that there are no revisions between the material shown within a subsection

Part 517—Special Contracting Methods

Subpart 517.1—Multi[-]year Contracting

517.101 Authority.

(a) In addition to the multi[-]year authority described in FAR 17.101, GSA is authorized to enter into contracts for periods not to exceed:—]

(1) Five years for the inspection, maintenance, and repair of fixed building equipment in federally owned buildings (40 U.S.C. ~~[581(c)(6)]; or 490(a)(14)]~~;

(2) Ten years for public utility services (40 U.S.C. ~~[501(b)(1)(B)] 481(a)(3)]~~).

~~(3) Five years for contracts awarded under the Information Technology Fund (40 U.S.C. 757(e)).~~

(b) ~~You~~ **[Contracting officers]** may award contracts under the authority of paragraph (a)(1) or paragraph (a)(2) of this section without a cancellation clause.

[517.103 Definitions.

“Fixed equipment in federally-owned buildings” means all GSA mechanical equipment, including heating/cooling (geothermal), ventilation, electrical (wind/photovoltaic), elevator, escalator, and fire safety systems, components, and devices.]

517.109 Contract clauses.

Use of FAR 52.217-2, Cancellation Under Multi-year Contracts, is optional in multi[-]year contracts authorized by 40 U.S.C. ~~490(a)(14)~~ **[581 (c)(6)]** for maintenance and repair of fixed equipment in federally-owned buildings and services and 40 U.S.C. ~~481(a)(3)~~ **[501(b)(1)(B)]** 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 a~~Options **[may be used]** 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) ~~[There is an]~~You anticipate**[d]** a need for additional supplies or services during the contract term.
 - (ii) ~~[When there is both a need for additional supplies or services beyond the basic contract period and the use of multi-year]~~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.~~
- (3) ~~Do not use a~~[A]n option **[shall not be used]** if the market price is likely to change substantially and an economic price adjustment clause inadequately protects the Government's interest.
- (b) *Construction.* For limitations on the use of options, see [536.213](#) and [536.270](#).

517.203 **[Reserved]** Solicitations.

- A solicitation that includes an option to extend should inform offerors that the contract could result in a long term contractual relationship subject to both of the following conditions:
- (a) Continuing need by GSA.
 - (b) Level of contract performance that at least meets GSA's quality performance expectations.

517.204 Contracts.

(a) Telecommunication contracts may not exceed 10 years per GSA Order ADM P 5450.39D, GSA Delegations of Authority Manual. ~~Information technology contracts. Notwithstanding FAR 17.204(e), the 5-year limitations apply also to information technology contracts unless a longer period is authorized by statute.~~

(b) Public utility contracts are limited to 10 years (40 U.S.C. 501(b)(1)(B)).

(b)(c) Requests to exceed 5-year limitation. A deviation request to exceed the 5-year limitation specified in FAR 17.204(e) must provide all the following information:

- (1) Clearly explain the contract(s) and organization(s) covered by the request.
- (2) Support the need for and reasonableness of the extension. Consider factors such as the following:
 - (i) The results of market research.
 - (ii) Stability of the requirement(s).
 - (iii) Benefits to the Government.
 - (iv) Use of a performance-based contracting approach.
 - (v) Availability of funds to cover estimated cancellation costs as well as costs for the first contract period.
 - (vi) Customary commercial practice.
 - (vii) Mechanisms to adjust for economic fluctuations.

(e)(d) Approval authority. Deviation r Requests to exceed the 5-year limitations specified in FAR 17.204(e) must be approved by: [—]

- (1) The head of the contracting activity for individual contracts; [; and]
- (2) GSA's Senior Procurement Executive for classes of contracts.

517.207 Exercise of options.

~~Before exercising an option, you must: [In addition to the requirements of FAR 17.207, the contracting officer must also:]~~

~~(a) Synopsize it unless you meet of the following conditions:~~

- ~~(1) The option was evaluated as part of the original competition.~~
- ~~(2) The contract action meets an exception in FAR 5.202.~~

~~(a)b) Document the contract file with the rationale for an extended contractual relationship if the contractor's performance rating under the contract is less than satisfactory. Conclude that the contractor's performance under the contract met or exceeded the Government's expectation for quality performance, unless another circumstance justifies an extended contractual relationship.~~

~~(b)e) Determine that the option price is fair and reasonable.~~

517.208 Solicitation provisions and contract clauses.

(a) For solicitations under FSS's [the Federal Acquisition Service's] Stock or Special Order Program, insert a provision substantially the same as the provision at 552.217-70, Evaluation of Options, if both of the following conditions apply:

- (1) The solicitation contains an option to extend the term of the contract.
- (2) The contract will be fixed price and contain an economic price adjustment clause.

(b) Insert the provision at 552.217-71, Notice Regarding Option(s), or a similar provision, in solicitations that include an option for increased quantities of supplies or services or an option to extend.

Part 552 – Solicitation Provisions and Contract Clauses

Subpart 552.2 – Text of Provisions and Clauses

552.217-70 Evaluation of Options.

As prescribed in 517.208(a), insert the following provision:

EVALUATION OF OPTIONS (AUG-1990[JUL 2016])

(a) The Government will evaluate offers for award purposes by determining the lowest base period price. When option year pricing is based on a formula (e.g., changes in the Producer Price Index or other common standard);[,] option year pricing is automatically considered when evaluating the base year price, as any change in price will be uniformly related to changes in market conditions. All options are therefore considered to be evaluated. Evaluation of options will not obligate the Government to exercise the option(s).

(b) The Government will reject the offer if exceptions are taken to the price provisions of the Economic Price Adjustment clause, unless the exception results in a lower maximum option year price. Such offers will be evaluated without regard to the lower option year(s) maximum. However, if the offeror offering a lower maximum is awarded a contract, the award will reflect the lower maximum.