

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAR Case 2020-G537, Order Level Material Clarifications

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM).
2. Background. The GSAM currently references the Senior Procurement Executive's (SPE) authorization of Order Level Materials (OLMs). OLMs are currently approved for 12 legacy Schedules and 59 subcategories under the newly consolidated Multiple Award Schedule (MAS). The GSAM does not currently accurately reflect terminology in conformance with the new consolidated MAS schedule or procedures, including incorrect citation references and acronyms. Further, the GSAR currently has different methods for administering travel, complicating procedures for ordering activities and contracting officers.

This change removes unnecessary language regarding approvals, removes confusing language regarding travel, and corrects citation and acronym references relating to OLMs.

3. Effective date. April 1, 2022.
4. Explanation of changes. This order and the amendment contained herein includes both regulatory and non-regulatory changes. For full text changes of the amendment see Attachment A, GSAR/GSAM Text, Line-In/Line-Out.

This amendment revises the regulatory language of the following GSAR subparts, changes summarized below, as follows:

- 538.72 (Order-Level Materials):
 - 538.7201 (Applicability), deletes this section entirely.
- 552.2 (Text of Provisions and Contract Clauses):
 - 552.238-115 (Special Ordering Procedures for the Acquisition of Order-Level Materials), makes drafting changes for conformity and grammar and syntax, and removes travel as an OLM.

This amendment also revises the non-regulatory language of GSAM subparts, changes summarized below, as follows:

- 538.72 (Order-Level Materials):
 - 538.7201 (Applicability), Changes the authority to accept proposed changes to the list of OLM authorities from the SPE to the Assistant Commissioner of the Federal Acquisition (FAS) Office of Policy and Compliance.
 - 538.7203 (Administering Order-Level Materials in FSS contracts), removes travel from the OLM clause.

5. Cancellations. Not applicable.

6. Point of contact. For clarification of content, contact Ms. Megan Huppee or Mr. Bryon Boyer, GSA Acquisition Policy Division, at gsarpolicy@gsa.gov.

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**GSAR Case 2020-G537
GSAR/GSAM Text, Line-In/Line-Out**

GSAM Baseline: Change 147 effective 02/02/2022

- Additions to baseline made by rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by rule are indicated by ~~strikethroughs~~
- 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 538—Federal Supply Schedule Contracting

Subpart 538.72—Order-Level Materials

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538.7201 Applicability.

~~(a) The GSA Senior Procurement Executive authorizes the use of order-level materials on Federal Supply Schedules.~~

~~(b) The list of Federal Supply Schedules authorized to allow for order-level materials is available at <https://www.gsa.gov/olm>.~~

[538.7201 General.]

[(a) *Authority.* In accordance with GSA's authority under FAR 8.403(b), GSA has established special ordering procedures for the incorporation of order-level materials into the Federal Supply Schedule program.]

[(b) *List.* The list of Federal Supply Schedule subcategories authorized to allow for order-level materials is available at <https://www.gsa.gov/olm>.]

(c) [*Changes.*]-HCAs may request [changes] additions or deletions to the list in paragraph (b) by submitting a GSA Form 1649 [, **Notification of Federal Supply Schedule Improvement,] for SPE approval [**by the Assistant Commissioner of the FAS Office of Policy and Compliance**]. [**Requests, submitted via GSA Form 1649 or otherwise,**] Justifications to add this authority to a Federal Supply Schedule must address the need for the authority, including why it is impractical to price the items at the contract level, and a description of the market research conducted (see FAR 10.002(e)). [**The FAS Office of Policy and Compliance should notify the SPE of changes to the list in paragraph (b) via email sent to spe.request@gsa.gov.**]**

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538.7203 Administering Order-Level Materials in FSS contracts[.]

(a) * * *

(b) Except as stated in 552.238-115(d)(10)(11), all terms and conditions that otherwise apply to the FSS contract also apply to order-level materials. For example, order-level materials must comply with the Trade Agreements Act clauses, the Environmental Attributes clause, and the Industrial Funding Fee and Sales Reporting clauses.

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Part 552—Solicitation Provisions and Contract Clauses

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Subpart 552.2—Text of Provisions and Clauses

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552.238-115 Special Ordering Procedures for the Acquisition of Order-Level Materials.

As prescribed in 538.7204(b), insert the following clause:

Special Ordering Procedures for the Acquisition of Order-Level Materials ([MONTH 2021]MAY 2019)

(a) *Definition.*

Order-level materials[, as used in this clause,] means supplies and/or services acquired in direct support of an individual task or delivery order placed against a Federal Supply Schedule (FSS) contract or FSS blanket purchase agreement (BPA), when the supplies and/or services are not known at the time of Schedule contract or FSS BPA award. The prices of order-level materials are not established in the FSS contract or FSS BPA. Order-level materials acquired following the procedures in paragraph (d) of this [clause]section are done so under the authority of the FSS program, pursuant to 41 U.S.C. 152(3), and are not open market items, which are discussed in FAR 8.402(f).

(b) * * *

* * * * *

(d) Procedures for including order-level materials when placing an individual task or delivery order against an FSS contract or FSS BPA.

(1) * * *

(2) Order-level materials are included in the definition of the term “material” in FAR clause 52.212-4 Alternate I, and[,] therefore[,] all provisions of FAR clause 52.212-4 Alternate I that apply to “materials” also apply to order-level materials. ~~The ordering activity shall follow procedures under the Federal Travel Regulation and FAR Part 31 when order-level materials include travel.~~

(3) * * *

(4) The value of order-level materials in a task or delivery order, or the cumulative value of order-level materials in orders against an FSS BPA awarded under a FSS contract[,] shall not exceed 33.33%.

(5) * * *

(6) Prior to the placement of an order that includes order-level materials, the Ordering Activity shall follow [the] procedures in FAR 8.404(h).

(7) * * *

(i) The [C] contractor proposing order-level materials as part of a solution shall obtain a minimum of three quotes for each order-level material above the simplified acquisition threshold.

(A) One of these three quotes may include materials furnished by the [C] contractor under [paragraph (i)(1)(ii)(A) of] FAR [clause] 52.212-4 Alt[ernate] I (i)(1)(ii)(A).

(B) If the [C] contractor cannot obtain three quotes, the [C] contractor shall maintain its documentation of why three quotes could not be obtained to support their determination.

(C) A [C] contractor with an approved purchasing system[,] per FAR [subpart] 44.3[,] shall instead follow its purchasing system requirement and is exempt from the requirements in paragraphs (d)(7)(i)(A) [through]-(B) of this clause.

(ii) * * *

(iii) If indirect costs are approved per [paragraph (i)(1)(ii)(D)(2) of FAR clause 52.212-4 Alternate I] FAR 52.212-4(i)(1)(ii)(D)(2) Alternate I, the Ordering Activity Contracting Officer must make a determination that all indirect costs approved for payment are fair and reasonable. Supporting data shall be submitted in a form acceptable to the Ordering Activity Contracting Officer.

(8) * * *

(9) In accordance with GSAR clause 552.238-83, Examination of Records by GSA [(Federal Supply Schedules)], GSA has the authority to examine the Contractor's records for compliance with the pricing provisions in FAR clause 52.212-4 Alternate I, to include examination of any books, documents, papers, and records involving transactions related to the contract for overbillings, billing errors, and compliance with the [Industrial Funding Fee (IFF)] and the Sales Reporting clauses of the contract.

(10) [Order-level materials] OLMs are exempt from the following clauses:

(i) * * *

(ii) 552.238-77 Submission and Distribution of Authorized [Federal Supply Schedule (FSS)] FSS Schedule Price [L] lists.

(iii) * * *

(11) *Exceptions for travel.* (i) Travel costs are governed by FAR 31.205-46 and therefore the requirements in paragraph (d)(7) do not apply to travel costs.

(ii) Travel costs do not count towards the 33.33% limitation described in paragraph (d)(4) of this section.

(iii) Travel costs are exempt from clause 552.238-80 Industrial Funding Fee and Sales Reporting.

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