

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAM Case 2021-G525,
Clarifying Interagency Policy Differences

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM) to clarify language within GSAM 517.502. This revision provides technical edits to language used in interagency acquisition. It also emphasizes the role of the Office of General Counsel in situations involving policy conflict between GSA and the requesting agency.
2. Background. On November 5th, 2020, GSA implemented GSAM Case 2011-G504 Change 117, Streamlining Agency Acquisitions. The goal of that amendment was to provide additional guidance regarding GSA's role in assisted acquisitions and to establish guidance to resolve differences in GSA and requesting agency policy under GSAM 517.502(e).

This revision clarifies that guidance based on common questions from the workforce and makes other corrections (i.e. changes "customer/funding agency" to "requesting agency" and "IA" to "interagency acquisitions") to promote clarity and consistency throughout the GSAM.

3. Effective date. August 30, 2022
4. Explanation of changes. This amendment For full text changes of the amendment see Attachment A, GSAM Text Line-In/Line-Out.

This amendment revises the language of the following GSAM subparts, changes summarized below:

GSAM 517.5 Interagency Acquisitions

Section 517.502 Procedures

- 517.502(b) - Corrected "customer/funding agency" to "requesting agency" and "IA" to "interagency acquisition."
- 517.502(b)(2) - Included language to clarify the term "expiration" as "within the final year that the funds are eligible for use."
- 517.502(c) - Corrected "customer/funding agency" to "requesting agency" and "IA" to "interagency acquisition."
- 517.502(d) - Corrected "customer/funding agency" to "requesting agency" and "IA" to "interagency acquisition."
- 517.502(e) - Changed the section title from "*Order of Precedence*" to "*Interagency Policy Differences*" to better reflect the purpose and function of the section to consider various scenarios without a specific order of precedence.

- 517.502(e)(1) - Revised to require consideration of language in the interagency agreement and to consult with legal counsel as necessary.
 - 517.502(e)(2) - Removed “higher dollar authority” and clarified language to broader address less restrictive policy from the requesting agency.
 - 517.502(e)(3) - Removed as it was unnecessary.
 - 517.502(e)(4) - Removed “specialty program authority” and clarified language to broader address authorities that the requesting agency can delegate.
5. Point of contact. For clarification of content, contact Benjamin Carver, GSA Acquisition Policy Division, at gsarpolicy@gsa.gov.

Jeffrey Koses
Senior Procurement Executive
Office of Acquisition Policy
Office of Government-wide Policy

GSAM Case 2021-G525
“Clarifying Interagency Policy Differences”

GSAM Text, Line-In/Line-Out

GSAM Baseline: Change 154 effective 07/26/2022

- Additions to baseline are indicated by **[bold text in brackets]**
- Deletions to baseline made by final 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 517- Special Contracting Methods

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Subpart 517.5 - Interagency Acquisitions

517.502 - Procedures.

(a) *General*

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(b) *Cut-Off Dates*

(1) Heads of Contracting Activities shall devise and publicize cut-off dates to accept interagency acquisitions for their respective organization(s) in support of this subpart. The decision to accept funds near the end of the fiscal year must be determined on a case-by-case basis taking into consideration the following at a minimum:

- (i) ~~funding agency~~ **[requesting agency]** assurance that the funds are current;
- (ii) understanding of the type of funds (e.g., one-year, multi-year, no-year;
- (iii) time required for GSA to properly obligate the funds; and
- (iv) confirmation that the ~~customer~~ **[requesting agency]** has submitted a “bona fide needs” statement.

(2) Cut-off dates do not apply when accepting no-year funds. Cutoff dates do not apply to multi-year funds not near expiration **[or within the final year that the funds are eligible for use]**.

(3) Once accepted, GSA must expeditiously and diligently begin work on all ~~IAs~~ **[interagency acquisitions]** it accepts.

(c) *Reasonable Time*

(1) Policy. When establishing interagency agreements, contracting activities must obligate funds in a reasonable time.

(2) Definition. A reasonable time is considered to be 90 calendar days unless otherwise established in the interagency agreement **[or other policy]**. Contracting activities must examine with particular care if the 90 calendar day acquisition lead time can be achieved by:

- (i) using an existing contract or task/delivery order which can be awarded or

modified expeditiously to meet the ~~customer/funding~~ **[requesting]** agency's requirement; and

(ii) validating that the ~~customer~~-**[requesting agency]**-specific fiscal policy attached to the funds (e.g., DoD 7000.14-R Financial Management Regulation Volume 11A Chapter 18) does not have any applicable restrictions which would prevent the use of 90 calendar days as a "reasonable time".

(3) Criteria for establishing "reasonable time". For ~~IAs~~**[interagency acquisitions]** in which the contracting activity has determined the "reasonable time" to be in excess of 90 calendar days, the contracting officers must:

(i) ensure that the "reasonable time" is mutually agreed upon and documented between the ~~customer/funding~~ **[requesting]** agency and the GSA contracting activity at the time funds are accepted (e.g., in the case of a DoD customer, signing DD Form 448-2, "Acceptance of MIPR"; for RWAs, date specified on GSA Form 2957, box 30B);

(ii) ensure that the ~~customer~~-**[requesting agency]**-specific fiscal policy restrictions are adhered to (e.g., DoD 7000.14-R Financial Management Regulation Volume 11A Chapter 18); and

(iii) document the rationale for establishing a "reasonable time" which is in excess of 90 calendar days.

(d) *Periodic Reviews*. Contracting officers must review all ~~IA~~**[interagency acquisition]** obligations for goods or services that have been ordered but not yet received (undelivered orders/unfilled customer orders) at fiscal year-end. Generally speaking, if the ~~IA~~**[interagency acquisition]** is for goods or services that were not delivered within the funds period of availability, the funds must be deobligated and current funds used, unless the goods could not be delivered because of delivery, production or manufacturing lead time, or unforeseen delays that are out of the control and not previously contemplated by the contracting parties at the time of contracting.

(e) *Order of Precedence [Resolving Interagency Policy Differences]*. Any inconsistency in the applicability of ~~customer~~ **[requesting]** agency and GSA policy shall be resolved by **[considering]** giving precedence in the following order when the customer agency's policy is more restrictive, less restrictive or based on program authority specific to the customer:

[(1) Where there is a conflict between the requesting agency and GSA policy, refer to the interagency agreement to resolve the conflict.

If the interagency policy is not clear, document what the conflict is and request guidance as to what the governing policy is from the Office of General Council (OGC).]

~~(1) The funding agency has a more restrictive policy than GSA. When the customer agency's policy is more restrictive than GSA's policy, the contracting officer shall follow the more restrictive policy.~~

~~(2) Higher dollar authority. When the customer~~**[requesting]** agency's policy is less restrictive than GSA's policy **[(e.g., higher dollar authority, streamlined procedures) and the interagency agreement does not identify which policy to follow]**, the contracting officer has discretion on which policy to follow. However, the contracting officer must consult with Service-level acquisition management (e.g., FAS OPC, PBS OAM) and OGC if following the ~~Page 6 of 6~~ less restrictive policy to ensure GSA has adequate controls in place and has the authority to utilize the less restrictive policy.

~~(3) Streamlined approach. In some circumstances funding agencies require less documentation for certain acquisition actions.~~

[(3)] ~~(4) Specialty program authority. A number of agencies have authorities which GSA does not have. GSA cannot use a [requesting] customer agency's given program authority (e.g., Other Transaction Authority (OTA)) unless the authority is specifically delegated to GSA [by the requesting agency in a formal delegation]. If the contracting officer determines that the specialty program authority, not delegated to GSA formally, should be considered for use in an IA action, prepare an exception request for approval by the Senior Procurement Executive.~~

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