

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAR Case 2020-G505, Clarify Commercial Products and Services Contract Terms and Conditions

1. Purpose. This Order transmits a revision to the General Services Administration Acquisition Regulation (GSAR) to make minor technical amendments to clarify GSA's deviation to the FAR commercial item clause.
2. Background. GSA is amending the GSAR to make several minor technical amendments to GSAR 552.212-4 and its prescribing section to improve clarity of GSA's Deviation to the equivalent FAR Commercial Items Clause. These technical amendments will assist contracting offices and contractors with understanding applicability of GSA's Deviation to their specific commercial procurement actions.
3. Effective date. January 12, 2023
4. Explanation of changes. This amendment includes regulatory changes. For full text of the regulatory amendments, see Attachment A, GSAR Text Line-In/Line-Out.
 - a. This amendment revises GSAR 512.301 in order to correct capitalization errors in the section title.
 - b. This amendment makes several technical corrections to GSAR 552.212-4:
 - i. Updates the clause introductory text to correct the GSAR prescription citation, and
 - ii. Revises the clause title text identifying it as an authorized deviation to conform to the format prescribed in GSAR 552.252-5, Authorized Deviations in Provisions and GSAR 552.252-6 Authorized Deviations in Clauses.
 - c. This amendment removes from GSAR 552.212-4 and its prescription at GSAR 512.301, the term "Alternate II" and any other associated language to clarify the clause/provision is a "Deviation" as defined and used by FAR 1.401 and GSAR subpart 501.4, and not an "Alternate" as defined by FAR 2.101.
5. Point of contact. For clarification of content, contact Nicholas Giles and Johnnie McDowell, GSA Acquisition Policy Division, at gsarpolicy@gsa.gov.

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GSAR Case 2020-G505

GSAM Text, Line-In/Line-Out

GSAM Baseline: Change 155 effective 08/30/2022

- 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
- Regulatory GSAR language is indicated by shaded text
- Non-regulatory GSAM language is indicated by unshaded text

Part 512--Acquisition of Commercial Products and Commercial Services

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Subpart 512.3 - Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Products and Commercial Services

512.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

(a) *Contract clauses.* Insert the following clauses in solicitations and contracts for the acquisition of commercial products and commercial services:

(1) * * *

(2) * * *

(b) *FAR deviation.* GSA has a FAR deviation that allows use of the clause at 552.212-4 in lieu of the FAR clause at 52.212-4. Insert the clause at 552.212-4, Contract Terms and Conditions-Commercial Products and Commercial Services, in lieu of the FAR clause at 52.212-4. ~~Use the clause with its Alternate I in lieu of the FAR clause at 52.212-4 and its Alternate I.~~ This clause may be tailored in accordance with FAR 12.302 and GSAM 512.302.

(c) *Discretionary use of GSAR provisions and clauses.* * * *

(d) *Use of additional provisions and 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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552.212-4 Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION).

As prescribed in 512.301(e)~~[(b)]~~, replace subparagraph (g)(2), paragraph (s), and paragraph (u) of FAR clause 52.212-4. Also, add paragraph (w) to FAR clause 52.212-4:

CONTRACT TERMS AND CONDITIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (FAR DEVIATION) (JAN 2022) [(DEVIATION FAR 52.212-4) (DATE)]

~~Alternate II (FAR Deviation) (Nov 2009). When a commercial item contract is contemplated and the contract will include the clause at FAR 52.212-4, insert this Alternate II instead of subparagraph (g)(2) of the FAR clause.~~

(g)(2) * * *

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(s) Order of precedence. * * *

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(u) Unauthorized Obligations.

(1) * * *

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(w) Commercial supplier agreements unenforceable clauses. * * *

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