

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAM Case 2021-G514, Lowest Price Technically Acceptable (LPTA)

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM) to provide guidance on the use of lowest price technically acceptable (LPTA) selection procedures, and addresses the applicability to the Federal Supply Schedule (FSS) Program.
2. Background. Section 880 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L 115-232, 41 U.S.C. 3701) applies criteria for and limitations to the use of the lowest price technically acceptable (LPTA) source selection process in solicitations.

This statute was implemented in the FAR by Case 2018-016 (86 FR 3679). The FAR change requires the contracting officer (CO) to document the file when using this source selection process per FAR 15.101-2(c)(6). It also requires the CO to avoid to “the maximum extent practicable” using LPTA for knowledge-based professional services, including IT or cybersecurity services. The GSAM is being amended to provide clarification that this limitation is not applicable to the Federal Supply Schedules.

Section 880 of the FY19 NDAA speaks to “source selection”, “proposals”, and cost and technical “tradeoffs” specifically. FAR 8.404(a), states that FAR Part 15 does not apply to BPAs or orders under the Schedules. Schedule contract pricing has already been completed and determined to be fair and reasonable (see FAR 8.404(d)). Considering this distinction, and in accordance with GSA’s authority to establish procedures for the Schedules Program (see 41 U.S.C. 152(3)), GSA interprets that Section 880 of the FY19 NDAA does not apply to FSS.

While it does not apply as a matter of statute, GSA determined that as a matter of policy, IT services, cyber-security services, and professional services generally should not be purchased on an LPTA basis. As such, the GSAM discourages it.

The statute also prohibited personal protective equipment (PPE) from being acquired on an LPTA basis. GSA believes that Congress intended this to mean law enforcement and military protective equipment such as body armor. GSA agrees that equipment of this sort should not be procured on an LPTA basis.

PPE has a broader meaning. It also covers health related supplies such as masks, hoods, nitrile gloves, and the like. There may be circumstances where health related supplies are appropriate to buy on an LPTA basis.

Thus, the GSAM discourages use of LPTA for IT, Cyber, and Professional services, and for law enforcement/military related PPE. It does not discourage LPTA for health care related PPE.

3. Effective date. October 29, 2021
4. Explanation of changes. This amendment includes non-regulatory GSAM changes. For full text changes of the amendment see Attachment A, GSAM Text Line-In/Line-Out.

The following is a summary of the non-regulatory revisions:

- Add subpart 508.403 to include special ordering instructions.
 - Language describes when it is and is not appropriate to evaluate orders using LPTA.
 - Describes how to document the file.
 - Add subpart 515.1 in order to add section 515.101-2. This new section includes:
 - Language describing the file documentation requirement for LPTA contracts.
 - Approval requirements for stand alone LPTA contracts.
 - Federal Procurement Data System (FPDS) reporting requirements for LPTA contracts.
 - Revise section 516.505 to correct the section title to conform with the corresponding FAR section. This revised section includes:
 - Documentation requirements for LPTA orders.
 - Approval requirements for LPTA orders.
5. Cancellations. Not applicable.
 6. Point of contact. For clarification of content, contact Adina Torberntsson, 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-G514
GSAM Text, Line-In/Line-Out

GSAM Baseline: Change 137 effective 10/01/2021

- 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 508—Required Sources of Supplies and Services

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Subpart 508.4 Federal Supply Schedules

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[508.403 Applicability

This section establishes special ordering procedures when considering use of LPTA.

(a) *Evaluation of FSS contract price.* GSA performs a technical evaluation in products and services prior to awarding the item on the FSS contract. This evaluation ensures orders placed against FSS contracts satisfy the requirements of Section 880 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232, 41 U.S.C. 3701).

(b) *Evaluation of order/BPA price.* The contracting officer may base their award determination on the level of effort and price as described in FAR 8.405-2(d) when purchasing services. If the contracting officer is purchasing supplies, price can still be the dominant factor. When purchasing more complex services or supplies, the contracting officer should engage in a best value tradeoff when evaluating the factors.

(1) Personal Protective Equipment (PPE) from a medical context, such as gloves and masks, may be purchased using LPTA. PPE from a law enforcement context, such as body armor, should not be procured through LPTA.

(2) Information technology services should not be procured through LPTA.

(3) Professional services should not be procured on an LPTA basis.

(4) Cyber-security services should not be procured on an LPTA basis.

(c) *Documentation.* Ordering activities may use LPTA when evaluating quotes for FSS orders or BPAs without further justification other than documenting the evaluation methodology per FAR 8.405-2(f)(4). As used in this subpart, issuing an FSS order or BPA does not require the file documentation for LPTA described in GSAM 515.101-2 or GSAM

516.505, however the Contracting Officer should appropriately document their award decision as described in FAR 8.405.1(g)(5) and FAR 8.405-2(d).]

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Part 515—Contracting by Negotiation

[Subpart 515.1-Source Selection Processes and Techniques]

[515.101-2 Lowest price technically acceptable source selection process.

(a) *General.* Lowest Price Technically Acceptable is a source selection process that may be useful in acquisitions in which the Government, or the market, does not benefit from technical tradeoffs. A contracting officer should not use the lowest price technically acceptable source selection process without doing the following:

(1) *Documentation requirements.* The contracting officer shall include documentation as to why the lowest price technically acceptable source selection is being utilized. The rationale for why this method of source selection is being utilized should be clearly described in the acquisition plan (see FAR 7.105(b)(4)). The rationale should include a description as to why utilizing this methodology will not harm the Government.

(b) *Federal Procurement Data System (FPDS).* Contracting officers shall ensure that FPDS is properly coded to include if lowest price technically acceptable is the source selection process used.]

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Part 516—Types of Contracts

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Subpart 516.5 Indefinite Delivery Indefinite Quantity Contracts

~~516.505 Task order and delivery order ombudsman.~~

~~Contracting officers shall reference <http://www.gsa.gov/ombudsman> when completing FAR clause 52.216-32, Task Order and Delivery Order Ombudsman.~~

[516.505 Ordering

(a) *Use of Lowest Price Technically Acceptable.* Lowest price technically acceptable may be a useful evaluation process when placing task or delivery orders. FAR 16.505(b)(1)(ii)(F) prescribes when this process is appropriate to use. For assisted acquisitions for DoD, DFARS 216.505(b)(1)(A) prescribes the required LPTA considerations. A contracting officer should not use this process without doing the following:

(1) *Documentation requirements.* If the contract's ordering instructions allow for the use of the lowest price technically acceptable, the rationale for why this method of evaluation is being utilized should be clearly described in the acquisition plan (see FAR 7.105(b)(4)). The rationale should include a description as to why utilizing this methodology will not harm the Government.

(b) *Task-order and delivery-order ombudsman.* Contracting officers shall reference <http://www.gsa.gov/ombudsman> when completing FAR clause 52.216-32, Task-Order and Delivery-Order Ombudsman.]

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