

## GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAR Case 2021-G510,  
Updating References to “Commercial Items”

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual (GSAM/R) to replace references to “commercial item” throughout.
2. Background. Section 836 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 separated the definition of “commercial item” into definitions of “commercial product” and “commercial service”. The Federal Acquisition Regulation (FAR) implemented this change through FAR Case 2018-018 which was published as a final rule at 86 FR 61017 on November 4, 2021 to implement.

GSA is making the same changes to both the GSAM and the GSAR (non-regulatory and regulatory changes).

3. Effective date. January 3, 2022
4. Explanation of changes. This amendment includes non-regulatory (GSAM) and regulatory (GSAR) changes. For full text changes of the amendment, see Attachment A, GSAM/GSAR Text Line-In/Line-Out.

In summary, this amendment changes instances of “commercial item(s)” with commercial product(s), commercial services(s), or both commercial product(s) and commercial service(s) and also replaces all instances of “non-commercial” and “noncommercial” with “other than commercial” as it relates to this rule. This is an editorial change and will provide consistent language to the FAR and throughout the GSAR/GSAM.

The changes are summarized below (titles reflect the new amended changes) and organized by GSAR material and GSAM material:

GSAR Regulatory Changes:

- 502.101 (Definitions)
- 509.405-1 (Continuation of current contracts)
- 511.602 (General)
- 512 (Acquisition of Commercial Products or Commercial Services)

- 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)
- 514.201-2 (Part I-The Schedule)
- 514.270-1 (Definition)
- 514.270-4 (Grouping line items for aggregate award)
- 514.207-7 (Guidelines for using the price list method)
- 532.1 (Financing for Other Than a Commercial Purchase)
- 532.908 (Contract Clauses)
- 536.7104 (Construction Contract Award)
- 538.271 (Establishing and Administering Federal Supply Schedules)
- 538.273 (FSS solicitation provisions and contract clauses)
- 538.7003 (Policy)
- 552.212-4 (Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION))
- 552.212-71 (Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Products and Commercial Services)
- 552.212-72 (Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Products and Commercial Services)
- 552.232-25 (Prompt Payment)
- 552.238-75 (Evaluation-Commercial Products and Commercial Services (Federal Supply Schedule))
- 552.238-78 (Identification of Products that Have Environmental Attributes)
- 552.238-82 (Modifications (Federal Supply Schedules))
- 552.238-111 (Environmental Protection Agency Registration Requirement)
- 552.238-114 (Use of Federal Supply Schedule Contracts by Non-Federal Entities)

GSAM Non-Regulatory Changes:

- 507.103 (Agency-head responsibilities)
- 507.105 (Contents of written acquisition plans)
- 507.7001 (Policy)
- 512.2 (Special Requirements for the Acquisition of Commercial Products or Commercial Services)
- 512.203 (Procedures for solicitation, evaluation, and award)
- 512.302 (Tailoring of provisions and clauses for the acquisition of commercial products and commercial services)
- 513.302-70 (Purchase order and related forms)
- 513.303-3 (Preparation of BPAs)
- 519.705-2 (Determining the need for a subcontracting plan)
- 519.705-6 (Postaward responsibilities of the contracting officer)
- 523.104 (Procedures)

- 532.112 (Nonpayment of subcontractors under contracts other than for commercial products and commercial services)
- 532.4 (Advance Payments for Other Than Commercial Acquisitions)
- 534.201 (Policy)
- 552.300 (Scope of Subpart)
- 553.300-70 (Forms not illustrated)
- 571 (Pilot Program For Innovative Commercial Products and Commercial Services)
  - 571.101 (Scope)
  - 571.102 (Purpose)
  - 571.103 (Definitions)
  - 571.202 (Restrictions)

5. Cancellations. None.

6. Point of Contact. Any questions regarding this order should be directed to Mr. Stephen Carroll, General Services Acquisition Policy Division, at [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov).

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Office of Government-wide Policy

GSAR Case 2021-G510

TAB A - GSAM/GSAR Text, Line-In/Line-Out

**GSAM Baseline: Change 143 effective 12/23/2021**

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

**Part 502-DEFINITIONS OF WORDS AND TERMS**  
**Subpart 502.1-Definitions**

**502.101 Definitions**

\* \* \* \* \*

"Commercial supplier agreements" means terms and conditions customarily offered to the public by vendors of supplies or services that meet[s] the definition of "commercial item[products and commercial services]" set forth in FAR 2.101 and intended to create a binding legal obligation on the end user. Commercial supplier agreements are particularly common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any supply[product] or service. The term applies-

\* \* \* \* \*

**Part 507-ACQUISITION PLANNING**  
**Subpart 507.1-Acquisition Planning**

**507.103 Agency-head responsibilities.**

\* \* \* \* \*

(b) *Approval thresholds.* (1) The following are the dollar value thresholds and the level of the approving official for approving acquisition plans or waiving written acquisition plans. For purposes of leasing, the Simplified Leasing Acquisition Threshold (SLAT) is defined in part- 570. The HCA may authorize

higher level approving officials for the thresholds set out below.

Threshold	Approving Official
* * *	* * *
Over SAT (SLAT for leases) to, and including, the threshold for Simplified Procedures for Certain Commercial <del>Items</del> <b>[Products and Commercial Services]</b>	One Level above the Contracting Officer
Over the threshold for Simplified Procedures for Certain Commercial <del>Items</del> <b>[Products and Commercial Services]</b> to, and including, \$20 million	Contracting Director
* * *	* * *

(ii) \* \* \*

(C) The threshold for Simplified Procedures for Certain Commercial ~~Items~~**[Products and Commercial Services]** is detailed at FAR 13.500.

\* \* \* \* \*

**507.105 Contents of written acquisition plans.**

(a) The APM contains the content prescribed in FAR 7.105 and shall be used in the preparation of written acquisition plans. Where a particular element described in FAR 7.105 does not apply, the acquisition plan should read "not applicable." The dollar value, complexity (e.g., commercial versus ~~non-commercial~~ ~~Items~~**[other than a commercial purchase]**) and method of acquisition (e.g., full and open competition versus task/delivery order) of the supplies and services to be acquired will affect the scope and breadth of the acquisition plan.

\* \* \* \* \*

**Subpart 507.70-Additional Requirements for Purchases in Support  
of National Security Systems involving Weapon Systems**

**507.7001 Policy**

(a) Although GSA's mission does not include the direct acquisition of weapon systems on behalf of the Department of Defense (DoD), GSA contracting activities may procure information technology supplies, services and systems in support of a weapon system, which is part of a national security system (e.g., components, services to install and maintain weapon systems, ancillary ~~items~~ **[supplies]** and services) when responding to a bona-fide requirement received from a requiring agency or program office.

\* \* \* \* \*

**Part 509-CONTRACTOR QUALIFICATIONS**

**Subpart 509.4-Debarment, Suspension, and Ineligibility**

**509.405-1 Continuation of current contracts.**

\* \* \* \* \*

(b) \* \* \*

(6) Availability of alternate competitive sources to meet the requirement (e.g., other multiple award contracts, readily available commercial ~~items~~ **[products and commercial services]-) [.]**

\* \* \* \* \*

**Part 511-DESCRIBING AGENCY NEEDS**

**Subpart 511.6-Priorities and Allocations**

**511.602 General**

\* \* \* \* \*

(d) The authority delegated to GSA shall not be used to support the procurement of any ~~items~~ **[product or service]** that-

\* \* \* \* \*

**Part 512-ACQUISITION OF COMMERCIAL ~~Items~~ [PRODUCTS AND COMMERCIAL SERVICES]**

**Subpart 512.2-Special Requirements for the Acquisition of Commercial ~~Items~~ [Products and Commercial Services]**

**512.203 Procedures for solicitation, evaluation, and award.**

\* \* \* \* \*

(c) ~~Construction as a commercial item~~ **[Contracting for Construction]**. The provisions and clauses in FAR 36 and GSAM [part 536](#) address the fundamental aspects of construction contracting. FAR 36 and GSAM [part- 536](#) apply well-established commercial principles that are designed to result in an equitable distribution of risk between the Government and its contractors. The contracting officer should consider the following when contemplating a construction acquisition ~~as a commercial item~~ **[as a commercial purchase]**—

(3) Whether a construction acquisition is conducted under FAR 36 or FAR 12, the contracting officer must adhere to the policies of FAR Subpart 22.4. This subpart addresses labor standards for contracts involving construction. Prior to making the determination that a construction acquisition can be conducted ~~as a commercial item~~ **[as a commercial purchase]**, the contracting officer should conduct appropriate market research in accordance with FAR 10 and GSAM—.

\* \* \* \* \*

(5) Construction contracts awarded ~~as commercial item acquisitions~~ **[as commercial acquisitions]** should not exceed the prospectus threshold. The prospectus threshold as referenced in section 102-73.35 of the Federal Management Regulation (FMR) is posted at <https://www.gsa.gov/annualprospectusthreshold>.

(d) *Acquisitions with Commercial Supplier Agreements.* For acquisitions with commercial supplier agreements, the deviated commercial ~~items~~ **[products and commercial services]** clause [552.212-4](#) as prescribed in [512.301](#) addresses common commercial terms that conflict with Federal law and makes the terms unenforceable against the Government. The contracting officer is responsible for:

\* \* \* \* \*

**Subpart 512.3-Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items [Products and Commercial Services]**

**512.301 Solicitation provisions and contract clauses for the acquisition of commercial items [products and commercial services].**

*(a) Solicitation provisions and clauses.*

(1) 552.212-71, Contract Terms and Conditions Applicable to GSA Acquisition[s] of Commercial Items **[Products and Commercial Services]**, when listed clauses apply. The clause provides for incorporation by reference of terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause.

(2) 552.212-72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisitions of Commercial Items **[Products and Commercial Services]**, when listed clauses apply. The clause provides for the incorporation by reference of terms and conditions required to implement provisions of law or executive orders that apply to commercial item **[product and commercial service]** acquisitions.

\* \* \* \* \*

*(c) Use of additional provisions and clauses. \* \* \**

(1) Prescribed in the FAR or GSAR for use in contracts for commercial items **[products or commercial services]**.

\* \* \* \* \*

(e) GSA has a deviation to revise certain paragraphs of FAR clause 52.212-4. Use clause 552.212-4 Contract Terms and Conditions - Commercial Items **[Products and Commercial Services]** (FAR DEVIATION), for acquisitions of commercial items **[products and commercial services]** in lieu of FAR 52.212-4 or 52.212-4 Alternate I. The contracting officer may tailor this clause in accordance with FAR 12.302 and GSAM 512.302.

\* \* \* \* \*

**512.302 Tailoring of provisions and clauses for the acquisition of commercial items [products and commercial services].**

(a) FAR 12.302(c) severely limits tailoring of clauses or otherwise including additional terms or conditions in commercial item **[products and commercial services solicitations or]** contracts

in a manner that is inconsistent with customary commercial practice. Such tailoring requires a waiver approved as follows:

\* \* \*

(b) Paragraph (w) of [552.212-4](#), Contract Terms and Conditions - Commercial ~~Items~~**[Products and Commercial Services]** (FAR DEVIATION), implements statutory requirements, clarifies the application of statutory requirements to common terms and conditions in commercial supplier agreements, sets forth a list of such terms and conditions that do not meet the Government's needs, and shall not be tailored.

\* \* \* \* \*

## **Part 513-SIMPLIFIED ACQUISITION PROCEDURES**

### **Subpart 513.3-Simplified Acquisition Methods**

#### **513.302-70 Purchase order and related forms.**

(a) \* \* \*

(2) The [GSA Form 300](#) may also be used to make other purchases when a specific form is not prescribed. It may be used as a delivery or task order instead of [SF-1449](#), Solicitation/Contract/Order for Commercial ~~Items~~**[Products and Commercial Services]**. The contracting officer may require the signature of the contractor on the [GSA Form 300](#), Order for Supplies and Services, when used as a purchase order or task order.

\* \* \* \* \*

#### **513.303-3 Preparation of BPAs.**

\* \* \* \* \*

(b) Delivery tickets. Instruct the contractor to include the name of the individual placing the order on the delivery ticket. The individual receiving the ~~item~~**[product]** or service must sign and date the delivery or service ticket. Both the supplier and the receiving office must retain a copy of the delivery ticket.

\* \* \* \* \*

**Part 514-SEALED BIDDING**  
**Subpart 514.2-Solicitation of Bids**

\* \* \* \* \*

**514.201-2 Part I-The Schedule**

\* \* \* \* \*

(b) When using other authorized forms (e.g., Standard Form 1447, Solicitation/Contract; Standard Form 1449, Solicitation/Contract/Order for Commercial ~~Items~~**[Products and Commercial Services]**), include the notice in paragraph (a) of this section. Change the reference to the form number, form title, and item number accordingly.

\* \* \* \* \*

**514.270-1 Definition.**

"Aggregate award" means an arrangement whereby two or more separately priced line items are combined for award to that bidder whose bid will result in the lowest overall cost to the Government for the line items as a group. The individual price for each item does not have to be the lowest bid received. (See also the definition of a "line item" in FAR ~~3.302~~**[2.101]**.)

\* \* \* \* \*

**514.270-4 Grouping line items for aggregate award.**

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(ii) Conversely, for many small commercial ~~items~~**[products]** ([e.g.,] hand tools, locks, ~~etc.~~), manufacturers may quote the same price for delivery anywhere in the U.S.

\* \* \* \* \*

**514.270-7 Guidelines for using the price list method.**

\* \* \*

(d) First time use for an ~~item~~**[product]** or service. The first time the contracting officer uses list prices for an ~~item~~**[product]** or service, give prospective bidders an opportunity

to review the proposed list. Also provide information on how GSA will use the list prices. This information may be provided in a draft solicitation.

\* \* \* \* \*

**Part 519-SMALL BUSINESS PROGRAM**

**Subpart 519.7-The Small Business Subcontracting Program**

**519.705-2 Determining the need for a subcontracting plan.**

\* \* \* \* \*

(b) FAR[ ]19.705-2(d) permits the contracting officer to require submission of subcontracting plans with initial offers under a negotiated acquisition. The contracting officer must require all offerors (other than small business concerns) to submit subcontracting plans with their initial offers when a negotiated acquisition meets all conditions:

(3) The acquisition ~~is not~~**[is not]** a commercial ~~item~~**[product or commercial service]** acquisition.

\* \* \* \* \*

**519.705-6 Postward responsibilities of the contracting officer.**

\* \* \* \* \*

(g) Description of ~~items~~**[products]**/services (including FPDS Product/Service Code).

\* \* \* \* \*

**Part 523-ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

**Subpart 523.1-Sustainable Acquisition Policy**

**523.104 Procedures**

\* \* \*

- (c) *Post-Award procedures* \* \* \*
  - (1) \* \* \*
  - (2) \* \* \*
    - (i) \* \* \*
    - (ii) *Recycled Content Report.* \* \* \*
      - (A) \* \* \*

(1)The contract requires (CPG) products that are not commercial off-the-shelf ~~items~~**[products]**; and

\* \* \* \* \*

#### **Part 532-CONTRACT FINANCING**

##### **Subpart 532.1-~~Non-Commercial Item Purchase Financing~~ [Financing for Other Than a Commercial Purchase]**

**532.112 [Non]P[p]ayment of subcontractors under contracts ~~for non-commercial items~~[other than for commercial products and commercial services].**

\* \* \* \* \*

##### **Subpart 532.4-Advance Payments for ~~Non-Commercial Items~~ [Other Than Commercial Acquisitions]**

\* \* \* \* \*

#### **Subpart 532.9-Prompt Payment**

\* \* \* \* \*

**532.908 Contract clauses.**

\* \* \*

*(c) Stock, Special Order, and Schedules Programs. \* \* \**

*(1) \* \* \**

*(iii) \* \* \**

*(2) If the contract is for commercial ~~items~~**[products or commercial services]** and will include FAR 52.212-4, use the clause with its Alternate II. If the contract is ~~not~~ for ~~commercial items~~**[other than commercial]**, use the clause at [552.232-25](#), Prompt Payment, instead of FAR 52.232-25.*

\* \* \* \* \*

#### **Part 534-MAJOR SYSTEM ACQUISITION**

##### **Subpart 534.2-Earned Value Management Systems.**

**534.201 Policy.**

\* \* \*

*(c) Applicability. \* \* \**

(1) *GSA acquisitions valued at \$20 million or more.* Cost-reimbursement or incentive contracts and orders (see FAR subparts 16.3 and 16.4) shall require a formally validated EVMS (in accordance with ANSI/EIA-748-A Earned Value Management System Acceptance Guide (see [534.201](#)(d) below)). EVMS requirements shall be included in ~~commercial and non-commercial~~ contracts, MAS orders, and GWAC orders when the requirements entail developmental or modernization work, as defined by OMB's definition of Developmental/Modernization/Enhancement in A-11, 7. Firm-fixed price, time-and-materials, and labor hour contracts and orders that are solely for commercial ~~items~~ **[products]** or **[commercial]** services, ~~as defined at FAR 2.101,~~ should not normally include EVMS.

\* \* \* \* \*

**Part 536-CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**  
**Subpart 536.71-Construction-Manager-as-Constructor Contracting**

\* \* \* \* \*

536.7104 Construction Contract Award.

In accordance with FAR 4.1001, the contracting officer shall use the SF 1442 to identify the services or ~~items~~**[supplies]** to be acquired as separately identified line items on a unit price or lump sum basis including the design phase services, the construction work GMP option(s), and any other work not included in the previously identified items.

\* \* \* \* \*

**Part 538-FEDERAL SUPPLY SCHEDULE CONTRACTING**  
**Subpart 538.2-Establishing and Administering Federal Supply Schedules**

\* \* \* \* \*

538.271 FSS contract awards.

(a) FSS awards will be for commercial ~~items~~ **[products and commercial services]** ~~as defined in FAR 2.101.~~ Negotiate contracts as a discount from established catalog prices.

\* \* \* \* \*

**538.273 FSS solicitation provisions and contract clauses.**

\* \* \*

(b) As prescribed in this paragraph, insert the following clause and provision as an addendum to 52.212-1, Instructions to Offerors-Commercial ~~Items~~ **[Products and Commercial Services]**:

\* \* \*

(c) As prescribed in this paragraph, insert the following provisions as an addendum to 52.212-2, Evaluation-Commercial ~~Items~~ **[Products and Commercial Services]**:

(1)- [552.238-75](#), Evaluation - Commercial ~~Items~~ **[Products and Commercial Services]** (Federal Supply Schedules). Use in FSS standing solicitations.

\* \* \*

(d) As prescribed in this paragraph, insert the following clauses as an addendum to Clause 52.212-4, Contract Terms and Conditions-Commercial ~~Items~~ **[Products and Commercial Services]**:

(1) \* \* \*

(2) [552.238-78](#), Identification of Products that have Environmental Attributes. Use only in FSS solicitations and contracts that contemplate ~~items~~ **[products]** with environmental attributes.

\* \* \*

(35) [552.238-111](#), Environmental Protection Agency Registration Requirement. Use only in FSS solicitations and contracts for supplies when ~~items~~ **[products]** may require registration with the Environmental Protection Agency.

\* \* \* \* \*

#### **Subpart 538.70-Purchasing by Non-Federal Entities**

\* \* \* \* \*

538.7003 Policy.

\* \* \*

(a) 52.212-4, Contract Terms and Conditions-Commercial ~~Items~~ **[Products and Commercial Services]**.

\* \* \* \* \*

**Part 552-SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

\* \* \* \* \*

**Subpart 552.2-Text of Provisions and Clauses**

\* \* \* \* \*

**552.212-4 Contract Terms and Conditions-Commercial Items[Products and Commercial Services] (FAR DEVIATION).**

As prescribed in [512.301](#)(e), 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 Items[**Products and Commercial Services**]. (FAR DEVIATION) (~~Feb 2018~~[DATE])

\* \* \*

\* \* \* \* \*

**552.212-71 Contract Terms and Conditions Applicable to GSA Acquisition[s] of Commercial Items[Products and Commercial Services].**

As prescribed in [512.301](#)(a)(1), insert the following clause:

Contract Terms and Conditions Applicable to GSA Acquisition[s] of Commercial Items[**Products and Commercial Services**] (May 2019[DATE])

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items ~~or~~ **[commercial products, including commercial components, and commercial services]**. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The **[GSAR]** clauses in paragraph (b) of this section are incorporated by reference:

\* \* \* \* \*

**552.212-72 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition[s] of Commercial Items[Products and Commercial Services].**

As prescribed in [512.301](#)(a)(2), insert the following clause:

Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition[s] of Commercial Items[Products and Commercial Services] (May 2019[DATE])

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or [commercial products, including commercial components, and commercial services]. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

\* \* \* \* \*

**552.232-25 Prompt Payment.**

\* \* \*

(a) *Invoice payments*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) \* \* \*

(5) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. Notwithstanding paragraph (g) of the clause at FAR 52.212-4, Contract Terms and Conditions—Commercial Items[Products and Commercial Services], if the Contractor submits hard-copy invoices, submit only an original invoice. No copies of the invoice are required. A proper invoice must include the items listed in paragraphs (a) (5) (i) through (a) (5) (viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 [ ] days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in paragraph (a) (5) of this clause.

\* \* \* \* \*

**552.238-75 Evaluation-Commercial Items[Products and Commercial Services] (Federal Supply Schedule).**

As prescribed in 538.273(c) (1), insert the following provision:

Evaluation-Commercial Items [Products and Commercial Services]  
(Federal Supply Schedule) (May 2019[DATE])

(a) The Government may make multiple awards for the supplies or services offered in response to this solicitation that meet the ~~definition of a~~ **[commercial product or commercial service definition]** in ~~“commercial item”~~ in FAR **[clause]** 52.202[-]1. Awards may be made to those responsible offerors that offer reasonable pricing, conforming to the solicitation, and will be most advantageous to the Government, taking into consideration the multiplicity and complexity of ~~items~~ **[products or services]** of various manufacturers and the differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, and other pertinent factors. By providing a selection of comparable supplies or services, ordering activities are afforded the opportunity to fulfill their requirements with the ~~item(s)~~ **[products or services]** that constitute the best value and that meet their needs at the lowest overall cost.

\* \* \* \* \*

#### 552.238-78 Identification of Products that Have Environmental Attributes.

\* \* \*

#### IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (~~MAY 2019~~ **[DATE]**)

\* \* \*

(d) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR part 260, Guides for the Use of Environmental Marketing Claims). The Government will accept an offeror's claim of an ~~item's~~ **[product's]** environmental attribute on the basis of-

\* \* \*

\* \* \* \* \*

#### 552.238-82 Modifications (Federal Supply Schedules).

\* \* \*

#### MODIFICATIONS (FEDERAL SUPPLY SCHEDULE) (~~MAR 2020~~ **[DATE]**)

\* \* \*

(b) *Types of modifications* \* \* \*

(1) \* \* \*

(i) \* \* \*

(ii) \* \* \*

(iii) \* \* \*

(iv) \* \* \*

(v) \* \* \*

(vi) \* \* \*

(vii) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Items **[Products and Commercial Services]**, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

\* \* \*

Alternate II \* \* \*

(b) Types of Modification.

(1) \* \* \*

(i) \* \* \*

(ii) \* \* \*

(iii) \* \* \*

(iv) \* \* \*

(v) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Items **[Products and Commercial Services]**, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

\* \* \* \* \*

### **552.238-111 Environmental Protection Agency Registration Requirement.**

\* \* \*

ENVIRONMENTAL PROTECTION AGENCY REGISTRATION REQUIREMENT (~~MAY~~  
2019 **[DATE]**)

\* \* \*

(c) If, during the performance of a contract awarded as a result of this solicitation, the EPA Registration Number for products being furnished is terminated, withdrawn, canceled, or suspended, and such action does not arise out of causes beyond the control, and with the fault or negligence of the Contractor or subcontractor, the Government may terminate the contract pursuant to either the Default Clause or Termination for Cause Paragraph (contained in the clause 52.212-4, Contract Terms and Conditions-Commercial Items **[Products and Commercial Services]**), whichever is applicable to the resultant contract.

\* \* \* \* \*

**552.238-114 Use of Federal Supply Schedule Contracts by Non-Federal Entities.**

\* \* \*

**USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS BY NON-FEDERAL ENTITIES (MAY 2019 [DATE])**

\* \* \*

(a) \* \* \*

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item **[Product and Commercial Service]** Contract Terms and Conditions that specifies "Compliance with laws unique to Government contracts" (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, parties to this new contract are encouraged to resolve disputes through Alternative Dispute Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an agreement that may be entered into by the Contractor with such an entity and the Federal Government is not a party.

\* \* \* \* \*

**Subpart 552.3-Provision and Clause Matrixes**

552.300 Scope of Subpart.

\* \* \*

(a) \* \* \*

(b) \* \* \*

Matrix of Provisions and Clauses

P/C	Number	Reference	Title	* * *
* * *	* * *	* * *	* * *	* * *
C	552.212-71	512.301(a)(1)	Contract Terms and Conditions Applicable to GSA Acquisition[s] of Commercial <del>Items</del> <b>[Products and Commercial Services]</b>	* * *
* * *	* * *	* * *	* * *	* * *

\* \* \* \* \*

**Part 553-FORMS**  
**Subpart 553.3-Illustration of Forms**

\* \* \* \* \*

**553.300-70 Forms not illustrated.**

\* \* \*

(a) \* \* \*

(b) \* \* \*

* * *		
Standard Form 1449	Solicitation/Contract/Order for Commercial <del>Items</del> <b>[Products and Commercial Services]</b>	* * *
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**Part 571-PILOT PROGRAM FOR INNOVATIVE COMMERCIAL ~~ITEMS~~ [PRODUCTS AND COMMERCIAL SERVICES]**

**571.101 Scope.**

(a) This part establishes a pilot program to competitively procure innovative commercial ~~items~~ **[products and commercial services]**, including products, technologies, and services using the commercial solutions opening (CSO) procedure authorized by

section 880 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L.114-328).

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#### 571.102 Purpose.

GSA has developed this pilot program to be implemented outside the normal Federal Acquisition Regulations requirements to engage traditional and non-traditional Government contractors, including start-up companies. This program is intended to promote competition with a streamlined approach to address specific needs for innovative commercial ~~items~~**[products and commercial services]**. This program offers a range of advantages to start-up companies and others who may not have significant work experience with the U.S. Government, including-

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#### 571.103 Definitions.

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"Commercial solutions opening (CSO)" is a competitive procedure for acquiring innovative commercial ~~items~~**[products and commercial services]**, including products, technologies, and services through a competitive selection of solution briefs resulting from a general solicitation and peer review of such solution briefs.

- (a) \* \* \*
  - (1) \* \* \*
    - (i) \* \* \*
    - (ii) \* \* \*

(2) Includes existing items within the production/commercialization phase (i.e. after design or development, and before widespread government or commercial adoption) as well as new adaptations of existing commercial ~~items~~**[products and commercial services]**.

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#### 571.202 Restrictions.

(a) The CSO procedure shall only be used when procuring innovative commercial ~~items~~**[acquisitions]**, including products, technologies, and services.

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