

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. In § 117.739, redesignate paragraphs (j) and (k) as paragraphs (k) and (j); revise newly redesignated paragraph (k) by removing the number "6.9" and adding, in its place, the number "8.9"; and revise paragraph (h) to read as follows:

§ 117.739 Passaic River.

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(h) The Route 280 Bridge, mile 5.8, at Harrison, New Jersey, shall open on signal if at least 24 hours notice is given by calling the number posted at the bridge.

* * * * *

Dated: January 20, 1999.

R.M. Larrabee,

*Rear Admiral, U.S. Coast Guard Commander,
First Coast Guard District.*

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 511, 516, 542, and 552

[APD 2800.12A, CHGE 81]

RIN 3090-AG81

General Services Administration Acquisition Regulation; Streamlining Administration of Federal Supply Service (FSS) Multiple Award Schedule (MAS) Contracts and Clarifying Marking Requirements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule with request for comments.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to clarify requirements for marking deliveries under contracts that provide for delivery to both civilian and military locations, clarify the contracting activities that are authorized to place orders under Federal Supply Service (FSS) contracts, allowing Procuring Contracting Officers (PCOs) in FSS to authorize Administrative Contracting Officers (ACOs) to issue cure or show cause notices, revise the time for submission to close-out reports under FSS multiple award schedule (MAS) contracts, and

simplify the process for deleting items from FSS MAS contracts.

DATES: Effective date: February 1, 1999. Comments should be submitted in writing to the address shown below on or before April 2, 1999.

ADDRESSES: Mail comments to General Services Administration, Office of Acquisition Policy, GSA Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4012, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Gloria Sochon, GSA Acquisition Policy Division, (202) 208-6726.

SUPPLEMENTARY INFORMATION:

A. Background

GSA is amending the GSAR for clarification and to delete unnecessary review requirements. GSAR 511.204 is amended to clarify the applicability of the clause at GSAR 552.211-73, Marking, so that deliveries are properly labeled for delivery at military or civilian locations. GSAR 516.505 and 552.216-73 are amended to define activities authorized to place orders under an FSS schedule contract when the contract provides that ordering activities may place orders directly. They are also amended to reflect that schedule contracts may provide for either or both task and delivery orders. GSAR 542.302 is amended to allow FSS PCOs to authorize ACOs to issue show cause or cure notices. This will streamline FSS's internal processes and allow for quicker response to contractor performance problems. GSAR 552.238-72 is amended to change the time for submission to contract close-out reports to eliminate a potential conflict between the required report date and the final date of performance of delivery orders. GSAR 552.238-76 is amended to change the reference to "maximum order limit" to "maximum order threshold." This is an administrative change to make 552.238-76 consistent with Federal Acquisition Regulation (FAR) subpart 8.4. GSAR 552.243-72 is amended to allow FSS MAS contractors to delete items without prior approval. This will remove a burdensome and time-consuming procedure that does not have value for the Government. GSAR 552.243-72 is also revised to give contractors the option of publishing supplemental price lists as modifications occur or on a quarterly basis. This recognizes that many contractors now issue electronic notices of changes and that modifications occur with such frequency that grouping changes to periodic updates in paper is more efficient for both contractors and the Government. GSAR 552.243-72 is

also revised to update a FAR reference and to delete a reference to an obsolete cause.

B. Executive Order 12866

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The GSA certifies that this interim rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The change will benefit all FSS MAS contractors, large and small, by streamlining administrative requirements.

- The change to the time for submission of contract close-out reports eliminates a potential conflict between the required report date and the final date of performance of delivery orders; this avoids placing a potentially impracticable requirement on FSS contractors.
- Updating the definition of activities authorized to place orders under FSS schedule contracts is necessary to accurately reflect current authority and avoid inconsistency with other order FSS solicitation and contract terms.
- Allowing FSS MAS contractors to delete items without prior approval will remove a burdensome and time-consuming procedure that does not have value for the Government. It allows contractors to provide potential customers the most current information on contract items.
- Contractors will have the option of publishing supplemental price lists as modifications occur or on a quarterly basis; letting them choose the most efficient method based on their individual circumstances.

D. Paperwork Reduction Act

The revised clause at 552.216-73 contains an information collection requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). However, the revisions to the clause made by this rule do not affect the information collection requirement which was approved previously by OMB and assigned control number 3090-0248. The revised clause at 552.238-72, Contractor's Report of Sales, also contains an information collection requirement subject to the Paperwork Reduction Act. However, the revisions to the clause made by this rule do not affect the information collection requirement which was approved

previously by OMB and assigned control number 3090-0121. The other changes in this rule do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

E. Determination To Issue an Interim Rule

Urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. GSA believes this rule will provide significant benefits to both the Federal government and GSA contractors:

- The change to 511.204 clarifies the applicability of the clause at 552.211-73, Marking, so that deliveries are properly labeled for delivery at military or civilian locations, helping to avoid delays or misdeliveries.
- Updating the definition of activities authorized to place orders under FSS schedule contracts is necessary to accurately reflect current authority and avoid inconsistency with other FSS solicitation and contract terms.
- Allowing FSS PCOs to authorize ACOs to issue show cause or cure notices streamlines FSS's internal processes and allows for quicker response to contractor performance problems.
- The change to the time for submission of contract close-out reports eliminates a potential conflict between the required report date and the final date of performance of delivery orders; this avoids placing a potentially impracticable requirement on FSS contractors.
- The change to allow FSS MAS contractors to delete items without prior approval will remove a burdensome and time-consuming procedure that does not have value for the Government. Preapproval of deletions is not necessary either for ascertaining cost reasonableness or to maintain control over the contract. Quicker notification of deletions will in fact help Federal agencies avoid ordering discontinued items.
- Giving contractors the option of publishing supplemental price lists as modifications occur or on a quarterly basis allows contractors to choose the most efficient method of notification and reduces the filing burden on Government users.

However, Pursuant to Pub. L. 98-577 and FAR 1.501, GSA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 511, 516, 542, and 552

Government procurement.
Accordingly, 48 CFR is amended as follows:
1. The authority citation for 48 CFR parts 511, 516, 542, and 552 continues to read as follows:
Authority: 40 U.S.C. 486(c).

PART 511—DESCRIBING AGENCY NEEDS

2. Section 511.204 is amended by revising paragraph (c) to read as follows:

511.204 Solicitation provisions and contract clauses.

* * * * *

(c) The contracting officer shall include the clause at 552.211-73, Marking, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities and the contract amount is expected to exceed the simplified acquisition threshold.

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PART 516—TYPES OF CONTRACTS

3. Section 516.505 is amended by revising paragraph (a) to read as follows:

516.505 Contract clauses.

(a) The contracting officer shall insert the clause at 552.216-73, Placement of Orders, in solicitations and contracts for stock or special order program items when the contract authorizes FSS and other agencies to issue delivery orders. If only FSS will issue delivery orders under any of its supply programs, use Alternate I. If a Federal Supply Schedule contract (single or multiple award) permits other organizations to issue task or delivery orders, use Alternate II.

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PART 542—CONTRACT ADMINISTRATION

4. Section 542.302 is amended by revising paragraph (b)(5) to read as follows:

542.302 Contract administration functions.

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(b) * * *

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(5) Issue cure or show cause notices (only applies to ACOs in FSS).

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PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 552.216-73 is amended by revising Alternate II to read as follows:

552.216-73 Placement of orders.

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Alternate II (Feb. 1999). As prescribed in 516.505(a), substitute the following paragraph (a) for paragraph (a) of this basic clause:

(a) The organizations listed below may place orders under this contract. Questions regarding organizations authorized to use this schedule should be directed to the Contracting Officer.

- (1) Executive agencies.
- (2) Other Federal agencies.
- (3) Mixed-ownership Government corporations.
- (4) The District of Columbia.
- (5) Government contractors authorized in writing by a Federal agency pursuant to 48 CFR 51.1.
- (6) Other activities and organizations authorized by statute or regulation to use GSA as a source of supply.

6. Section 552.238-72 is amended by revising the date of the clause and paragraph (e) to read as follows:

552.238-72 Contractor's report of sales.

* * * * *

CONTRACTOR'S REPORT OF SALES (FEB 1999)

* * * * *

(e) The report is due 30 days following the completion of the reporting period. The Contractor must also provide a close-out report within 120 days after the expiration of the contract. The contract expires upon physical completion of the last, outstanding task or delivery order of the contract. The close-out report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then show zero sales in the close-out report.

(End of Clause)

7. Section 552.238-76 is amended by revising the date of the clause and paragraph (d)(1) to read as follows:

552.238-76 Price reductions.

* * * * *

PRICE REDUCTIONS (FEB 1999)

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(d) * * *

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

* * * * *

8. Section 552.243-72 is amended by revising the date of the clause and paragraphs (b)(1) (v) and (vi), the first sentence of (b)(3), (c), (d) and (e) to read as follows:

552.243-72 Modifications (Multiple Award Schedule).

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MODIFICATIONS (MULTIPLE AWARD SCHEDULE) (FEB 1999)

* * * * *

(b) * * *

(1) * * *

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215-6, Place of Performance.

(vi) Hazardous material information (if applicable) must be submitted as required by 52.223-3 (ALT I), Hazardous Material Identification and Material Safety Data.

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(3) Price Reduction, The Contractor shall indicate whether the price reduction falls under item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-76. * * *

(c) Effective Dates. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-76.

(d) Electronic File Updates. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the contracting officer as set forth in the Price Reductions clause at 552.238-76.

(e) Amendments to Paper Federal Supply Schedule Price Lists.

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 days after the effective date of each modification.

(ii) Distribute cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three months from the effective date of the earliest modification. The Contractor must distribute a cumulative supplement within 15 days from the date of the latest modification covered.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the contracting officer and one copy to the FSS Schedule Information Center.

(End of Clause)

Dated: January 21, 1999.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 981222314-8321-02; I.D. 012799A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim 1999 pollock total allowable catch (TAC) for Statistical Area 630 established by the 1999 Interim Specifications and amended by the emergency interim rule implementing Steller sea lion protection measures for the pollock fisheries off Alaska.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 27, 1999, until superseded by the Final 1999 Harvest Specification for Groundfish, which will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Nick Hindman, 907-581-2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance

with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(2)(i) and emergency provisions implemented at § 679.20(a)(5)(ii)(c) (64 FR 3437, January 22, 1999), NMFS established the interim pollock TAC in Statistical Area 630 as 9,156 metric tons (mt).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the interim TAC of pollock in Statistical Area 630 will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,656 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the seasonal allocation of pollock in Statistical Areas 630. Providing prior notice and an opportunity for public comment is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 27, 1999.

Gary C. Matlock, Ph.D.,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99-2327 Filed 1-27-99; 1:54 pm]

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