

to provide, all appropriate technical information, system requirements, and justification for requested station parameters when such information is necessary to identify and recommend the most appropriate frequency.

(b) In the 2025–2110 MHz band:

(1) *Site-based local coordination.* (i) The space launch frequency coordinator must initiate a post-grant coordination request for site-specific coordination with the local Broadcast Auxiliary Service (BAS) frequency coordinator, including the provision of all necessary technical and operational parameters for each space launch licensee, to protect BAS, Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) operations, as well as Federal entities that have completed coordination with the BAS frequency coordinator.

(ii) The space launch frequency coordinator is not required to initiate a post-grant coordination request for site-specific coordination with the local BAS frequency coordinator if the Space Launch Services licensee provides a showing to the space launch frequency coordinator that:

(A) It has previously coordinated its proposed launch operations with the appropriate local BAS frequency coordinator and continues to comply with any conditions or agreements resulting from such prior coordination, or that it has entered into applicable coordination agreements with co-frequency entities;

(B) It has ascertained that its proposal will not constrain, preclude, nor interfere with incumbents in the band, including BAS, CARS, and LTTS licensees and previously coordinated Federal operations; and

(C) It has demonstrated in a technical showing that its proposed operation will not create more than 0.5 dB increase in the noise threshold of a receiver at a fixed or temporary fixed electronic news gathering (ENG) receive site.

(iii) Upon request, the space launch frequency coordinator and/or the Space Launch Services licensee must provide any additional information requested by the local BAS frequency coordinator regarding a pending recommendation that it has processed but has not yet been granted.

(iv) It is the responsibility of the space launch frequency coordinator to ensure that its frequency recommendations do not conflict with the frequency recommendations of the local BAS frequency coordinator. Should a conflict arise, the affected coordinators are jointly responsible for taking action to resolve the conflict, up to and including notifying the Commission and the

National Telecommunications and Information Administration (NTIA) that a launch request must be denied.

(2) *Per-launch coordination with NTIA.* (i) To protect Federal users in the band, the space launch frequency coordinator shall conduct a post-grant, per-launch coordination with NTIA by providing the Space Launch licensee's site and station registration with their corresponding technical and operational parameters to initiate the coordination process for each proposed launch.

(ii) To assist NTIA's review, the space launch frequency coordinator may provide a showing that the operational and technical parameters of a proposed launch are consistent with a prior successful coordination and that the space launch licensee continues to comply with any conditions or agreements resulting from such prior coordination or that its proposed launch is covered by an applicable coordination agreement(s) with co-frequency entities.

(c) In the 2200–2290 MHz band:

(1) *Per-launch coordination with NTIA.* (i) To protect Federal users in the band, the space launch frequency coordinator shall conduct a post-grant, per-launch coordination with NTIA by providing the Space Launch Services licensee's site and station registration with their corresponding technical and operational parameters to initiate the coordination process for each proposed launch.

(ii) To assist NTIA's review, the space launch frequency coordinator may provide a showing that the operational and technical parameters of a proposed launch are consistent with a prior successful coordination and that the space launch licensee continues to comply with any conditions or agreements resulting from such prior coordination or that its proposed launch is covered by an applicable coordination agreement(s) with co-frequency entities.

(2) [Reserved]

■ 13. Delayed indefinitely, add § 26.301 to read as follows:

§ 26.301 Authorized bandwidth.

The Commission shall issue licenses in the Space Launch Services with bandwidths up to and including 5 megahertz, provided that the Commission may issue licenses with a maximum bandwidth exceeding 5 megahertz upon adequate justification from a license applicant explaining why the requested bandwidth is necessary for specific space launch operations, including an explanation of why the applicant's operations cannot be

satisfied using a bandwidth of 5 megahertz or less.

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 502, 538, and 552

[GSAR Case 2020–G510; Docket No. 2023–0025; Sequence No. 1]

RIN 3090–AK20

General Services Administration Acquisition Regulation; Federal Supply Schedule Economic Price Adjustment

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration is amending the General Services Administration Acquisition Regulations (GSAR) to standardize and simplify the Multiple Award Schedule clauses for economic price adjustments. This rule removes certain economic price adjustment requirements within these clauses to better align with commercial standards and practices.

DATES: This rule is effective on September 4, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Thomas O'Linn, Procurement Analyst, at gsarpolicy@gsa.gov or 202–445–0390. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at GSARegSec@gsa.gov or 202–501–4755. Please cite GSAR Case 2020–G510.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the (GSAR) to standardize and simplify the Multiple Award Schedule (Schedule) clauses for economic price adjustments.

GSA published a proposed rule in the **Federal Register** at 88 FR 78710 on November 16, 2023. One respondent submitted comments in response to the proposed rule.

II. Discussion and Analysis

GSA reviewed the public comments in the development of the final rule; however, no changes were made as a result of the public comments received. A discussion of the public comments received is provided as follows:

A. Summary of Significant Changes

There are no significant changes from the proposed rule.

B. Analysis of Public Comments

1. Support for the Rule

Comment: The respondent expressed support for the rule.

Response: GSA acknowledges the respondent's support for the rule.

2. Training

Comment: The respondent recommended contracting officers receive training on processing Schedule economic price adjustment (EPA) requests.

Response: GSA acknowledges the respondent's recommendation and will consider their recommendations as part of the training plan for this rule. GSA plans on reviewing and updating existing Schedule EPA training resources. GSA also intends to provide training to the acquisition workforce, including contracting officers.

3. Guidance

Comment: The respondent recommended guidance be revised and, if applicable, developed to support the processing of Schedule EPA requests.

Response: GSA acknowledges the respondent's recommendation and will consider their recommendations within the update of Schedule EPA guidance. GSA plans on updating existing Schedule EPA guidance to support the implementation of this rule. Guidance will include direction to contracting officers on how to properly process EPA requests based on the type of EPA mechanism (e.g., a fixed escalation rate and market indicator) identified in the contractor's Schedule contract.

C. Summary of Minor Changes

1. General. The final rule renumbers the clause 552.238–118, Economic Price Adjustment—Federal Supply Schedule Contracts, to 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts. The renumbering of this clause ensures consistency with the changes made to the GSAR that went into effect July 8, 2024 (see 89 FR 48330, June 6, 2024).

2. Section 501.106, OMB Approval under the Paperwork Reduction Act. The final rule revises the entry for 552.238–120 to include Office of Management and Budget (OMB) Control No. 3090–0306. The revision is necessary to add all of the OMB information collections tied to this clause.

3. Section 502.101, Definitions. The final rule revises the text for the definition of “Economic price adjustment (EPA) method” in order to add a parenthesis in front of the period.

4. Section 538.273, FSS solicitation provisions and contract clauses. The final rule includes the redesignation of the clause 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts, from paragraph (d)(38) to paragraph (d)(41). This change ensures the clauses listed in paragraph (d) of GSAR 538.273 remain in numerical order.

5. Section 538.273, FSS solicitation provisions and contract clauses. The final rule includes the removal of the following “Use in Federal Supply Schedule solicitations and contracts.” The removal of this text ensures consistency with the changes made to this section, which went into effect February 12, 2024 (see 89 FR 2172, January 12, 2024).

III. Expected Impact of the Rule

This rule will benefit the Schedule program as a whole. For example, GSA anticipates that these changes will increase the number and extent of offerings available through the Schedule program, improve customer satisfaction/reduce customer cost by ensuring needed products, services, and solutions are not removed from the Schedule program due to market volatility, and reduce administrative costs on Schedule contractors, particularly small businesses and new entrants.

GSA receives hundreds of modification requests each month from contractors to remove items from their Schedule contracts or declined orders due to price variability in the commercial market. By statute, the procedures for the Schedule program are competitive so long as they are open to all and contracts and orders result in the lowest overall cost alternative. GSA anticipates this rule will help it ensure customers experience the lowest overall cost alternative on their orders by maximizing the chance that full solutions are available on the Schedule contract, thus minimizing the need to conduct multiple separate acquisitions to fulfill a requirement.

Currently, Schedule contracts included at least one of the following four clauses related to the submission and processing of EPA requests during contract performance: (1) an authorized deviation to GSAR clause 552.216–70; (2) Alternate I of GSAR clause 552.216–70; (3) clause I–FSS–969; or (4) an Alternate of clause I–FSS–969. This rule standardizes and simplifies the EPA requirements contained in these four clauses. This rule consolidates these four clauses into a single Schedule EPA clause. These changes do not alter the way Schedule contractors conduct

business, or their ability to submit an EPA request.

The qualitative anticipated benefits include, but are not limited to, the creation of a single standardized Schedule EPA clause; greater flexibility around EPA requests; providing clarity around EPA within the Schedule program; providing a connection between the Schedule solicitation and resultant contracts; and greater flexibility and agility for purposes of responding to changing conditions.

GSA anticipates the quantitative benefits to be related to improved regulatory familiarization. GSA calculates the estimated total cost for Schedule contractors to familiarize themselves with existing EPA requirements as \$3,251,640 (i.e., 3 hours * \$77.42¹ (GS–12 Step 5 base pay plus “Rest of US Locality Pay” plus “Fringe”) * 14,000 approximate number of current Schedule contractors)). After these revisions: GSA estimates the total cost as \$2,709,700 (i.e., 2.5 hours * \$77.42 (GS–12 Step 5 base pay plus “Rest of US Locality Pay” plus “Fringe”) * 14,000 approximate number of current Schedule contractors)). Resulting in a reduction in estimated total cost of \$541,940.

IV. Executive Orders 12866, 13563, and 14094

Executive Order (E.O.) 12866 (Regulatory Planning and Review) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action, and, therefore, is not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

¹ 2023 Rest of US, 12 Step 5 × 2.0 fringe = \$77.42; the rate is adjusted upward by 100% to adjust for overhead and benefits.

V. Congressional Review Act

OIRA has determined that this rule is not a major rule under 5 U.S.C. 804(2). Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act or CRA, generally provides that before a “major rule” may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The General Services Administration will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the CRA cannot take effect until 60 days after it is published in the **Federal Register**.

VI. Regulatory Flexibility Act

GSA does not expect this final rule to 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.*, because this rule is to standardize and simplify existing EPA requirements related to Schedule (*e.g.*, revise GSAR clause 552.216–70, Economic Price Adjustment-FSS Multiple Award Schedule Contracts).

The underlying purpose of the changed text remains the same (*i.e.*, supporting the submission and processing of EPA requests), and therefore any burden would have been identified previously.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis. A Final Regulatory Flexibility Analysis (FRFA) has been prepared consistent with 5 U.S.C. 603 *et seq.* The FRFA is summarized as follows:

The objective of the rule is to standardize and simplify the clauses for Schedules related to EPA. These revisions consolidate the four existing Schedule clauses into a single Schedule EPA clause. These revisions also remove certain procedural limits contained in these clauses to better align with commercial standards and practices. GSA anticipates that these changes will increase the number and extent of offerings available through the Schedule program, improve customer satisfaction/reduce customer costs by ensuring needed products, services, and solutions are not removed from the Schedule program, and reduce administrative costs on Schedule contractors, particularly small businesses and new entrants.

Title 40 of the United States Code (U.S.C.) section 121 authorizes GSA to issue regulations, including the GSAR, to control

the relationship between GSA and contractors. In addition, 41 U.S.C. 152 provides GSA authority over the Schedule program.

The rule applies to both large and small businesses, which are awarded Schedule contracts. Information obtained from FAS as well as the recent renewal of Information Collections 3090–0235 and 3090–0306 were used as the basis for estimating the number of Schedule contractors that this rule may impact. For Fiscal Year 2023 there were approximately 14,000 Schedule contractors, of which over 12,000 (85 percent) were small business entities. In addition, according to the recent renewal of Information Collections 3090–0235 and 3090–0306, GSA processes approximately 2,561 EPA requests annually. GSA anticipates this rule will not significantly impact this number.

The rule does not implement new or changed reporting, recordkeeping, or other compliance requirements for Schedule contracts. The rule merely updates and clarifies existing EPA requirements currently used in Schedule contracts.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives to this rule which would accomplish the stated objectives. This rule does not initiate or impose any new administrative or performance requirements on small business contractors because the requirements prescribed in existing Schedule EPA clauses are already being followed. The rule merely updates and clarifies these existing requirements so as to reduce burden for both the government and contractors as it relates to EPA within Schedule contracts.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 3501) does apply; however, these changes do not impose additional information collection requirements to the burden previously approved under OMB Control Number 3090–0235, titled: Federal Supply Schedule Pricing Disclosures and Sales Reporting and OMB Control Number 3090–0306, titled: Transactional Data Reporting. Both OMB information collections, however, will be updated to reflect the change in the clause title and number from 552.216–70, Economic Price Adjustment—FSS Multiple Award Schedule Contracts, to 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts.

List of Subjects in 48 CFR Parts 501, 502, 538, and 552

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-Wide Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 501, 502, 538, and 552 as set forth below:

- 1. The authority citation for 48 CFR parts 501, 502, 538, and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

- 2. In section 501.106, amend table 1 by—
 - a. Revising the entry for “516.506”;
 - b. Removing the entry for “552.216–70”; and
 - c. Adding, in numerical order, entries for “552.238–83” and “552.238–120”.

The revision and additions read as follows:

501.106 OMB approval under the Paperwork Reduction Act.

* * * * *

TABLE 1 TO 501.106

GSAR reference	OMB control No.
* * * * *	
516.506	3090–0248, 3090–0306
* * * * *	
552.238–83	3090–0235, 3090–0306
* * * * *	
552.238–120	3090–0235, 3090–0306
* * * * *	

PART 502—DEFINITIONS OF WORDS AND TERMS

- 3. Amend section 502.101 by adding, in alphabetical order, the definition of “Economic price adjustment (EPA) method” to read as follows:

502.101 Definitions.

* * * * *

Economic price adjustment (EPA) method means the agreed upon procedure by which pricing may be adjusted throughout the contract period to include, but not limited to, the mechanism(s) to be used to adjust pricing (*e.g.*, adjustments based on established pricing), the pricing subject to adjustment, and any other

requirements (e.g., timing, frequency, limits on increases).

* * * * *

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 4. Amend section 538.273 by adding paragraph (d)(41) to read as follows:

538.273 FSS solicitation provisions and contract clauses.

* * * * *

(d) * * *

(41) 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts.

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.216–70 [Removed]

- 5. Remove section 552.216–70.
■ 6. Amend section 552.238–115 by:
■ a. Revising the date of the clause;
■ b. Removing paragraph (d)(10)(i);
■ c. Redesignating paragraphs (d)(10)(ii) and (iii) as paragraphs (d)(10)(i) and (ii); and
■ d. Adding new paragraph (d)(10)(iii).
The revision and addition read as follows:

552.238–115 Special Ordering Procedures for the Acquisition of Order-Level Materials.

* * * * *

Special Ordering Procedures for the Acquisition of Order-Level Materials (DATE)

* * * * *

(d) * * *

(10) * * *

(iii) 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts.

* * * * *

■ 7. Add section 552.238–120 to read as follows:

552.238–120 Economic Price Adjustment—Federal Supply Schedule Contracts.

As prescribed in 538.273(d), insert the following clause:

552.238–120 Economic Price Adjustment—Federal Supply Schedule Contracts (DATE)

(a) Definition.

Economic price adjustment method, as used in this clause, means the agreed upon procedures by which pricing may be adjusted throughout the contract period to include, but not limited to, the mechanism(s) to be used to adjust pricing (e.g., adjustments based on established pricing), the pricing subject to adjustment, and any other requirements (e.g., timing, frequency, limits on increases).

(b) General. This contract provides for economic price adjustment (EPA) to contract pricing based on the established EPA method. EPA provides for the increase and decrease to stated contract pricing upon the occurrence of specified conditions described in the EPA method, such as market index changes or unforeseeable significant changes in market conditions.

(c) Exceptions. This clause does not cover—

(1) Adjustments based on statute, Executive Order, or regulation (e.g., Service Contract Labor Standards (41 U.S.C. chapter 67) and AbilityOne procurements (FAR subpart 8.7));

(2) Adjustments based on a change clause (e.g., paragraph (c) of GSAR clause 552.212–4, Contract Terms and Conditions—Commercial Products and Commercial Services (FAR DEVIATION 52.212–4));

(3) Price reductions made under GSAR clause 552.238–81, Price Reductions;

(4) Adjustments based on GSAR clause 552.238–117, Price Adjustment-Failure to Provide Accurate Information; and

(5) Adjustments based on a contract clause that authorizes an adjustment based on specified actions or conditions.

(d) Economic price adjustment method. The EPA method may be revised through mutual agreement of the parties. In the event of a conflict between the EPA method and this contract, the contract shall control.

(e) Submission requirements. The Contractor shall submit EPA requests to the Federal Supply Schedule (FSS) Contracting Officer pursuant to the EPA method. EPA requests shall fully conform to the requirements of the EPA method and include sufficient information to support the request. The FSS Contracting Officer may request additional information from the Contractor.

(f) Contracting Officer responsibilities. The FSS Contracting Officer will—

(1) Review the EPA request to ensure conformance with the EPA method,

(2) Make a determination. The FSS Contracting Officer may use any information (e.g., market research) deemed necessary to support their determination. The FSS Contracting Officer may determine to—

(i) Accept the EPA request either in whole or in part,

(ii) Reject the EPA request either in whole or in part, or

(iii) Take any other action deemed to be in the best interest of the Government (e.g., negotiate a more favorable EPA).

(3) Notify the Contractor of their determination, and

(4) Modify the contract, as applicable, to reflect the determination. Contract items that need to be removed from the contract as a result of rejection or an inability to reach agreement are to be removed in accordance with 552.238–79, Cancellation.

(g) Effective date. EPA requests approved by the FSS Contracting Officer under this clause shall apply to orders issued on or after the effective date of the contract modification. Blanket Purchase Agreements (BPAs) may be modified by the ordering agency in accordance with the terms and conditions of the BPA.

(h) Update of contract pricing and catalog data. The Contractor shall update its FSS pricing and any other FSS catalog data in accordance with the terms and conditions of this contract.

(End of clause)