

154(i), 157(a), 303(b), 303(f), 303(g), and 303(r).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532, 538, and 552

[GSAR Case No. 2002-G505]

RIN 3090-AH76

General Services Administration Acquisition Regulation; Federal Supply Schedule Contracts—Acquisition of Information Technology by State and Local Governments Through Federal Supply Schedules

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

ACTION: Proposed rule with request for comments; notice of public meeting.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to implement section 211 of the E-Government Act of 2002. Section 211 authorizes the Administrator of GSA to provide for the use by States or local governments of its federal supply schedule for “automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).” To facilitate an open dialogue between the Government and interested parties on the implementation of section 211, GSA will hold a public meeting on the proposed GSAR rule on February 4, 2003.

DATES: *Comment Date:* Interested parties should submit comments to the Regulatory Secretariat at the address shown below on or before March 24, 2003, to be considered in the formulation of a final rule.

Public Meeting: A public meeting will be conducted at the address shown below starting at 10 a.m. to 12 p.m., local time, on February 4, 2003, to ensure an open dialogue between the government and interested parties on the proposed rule.

ADDRESSES: Submit written comments to—General Services Administration, Regulatory Secretariat (MVA), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—*GSARcase.2002-G505@gsa.gov*.

Please submit comments only and cite 2002-G505 in all correspondence related to this case.

Public Meeting: The location of the public meeting will be at the GSA Auditorium, 1800 F Street, NW., Washington, DC 20405.

If you wish to attend the meeting and/or make presentations on the proposed rule, please contact and submit a copy of your presentation by January 28, 2003, to—General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4033, Attn: Beverly Cromer, Washington, DC 20405. Telephone: (202) 208-6750.

Submit electronic materials via the Internet to—*meeting.2002-G505@gsa.gov*.

Please submit presentations only and cite Public Meeting 2002-G505 in all correspondence related to this public meeting. The submitted presentations will be the only record of the public meeting. If you intend to have your presentation considered as a public comment on the proposed rule, the presentation must be submitted separately as a public comment as instructed above.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4225, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Beverly Cromer, Procurement Analyst, at (202) 208-6750. Please cite GSAR case 2002-G505.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Supply Schedule Program, which is directed and managed by GSA, is designed to provide Federal agencies with a simplified process of acquiring commonly used commercial supplies and services at prices associated with volume buying. Ordering activities conduct streamlined competitions among a number of schedule contractors, issue orders directly with the selected contractor, and administer orders.

Section 211 of the E-Government Act of 2002 (Pub. L. 107-347) amends the Federal Property and Administrative Services Act to allow for “cooperative purchasing,” where the Administrator of GSA provides States and localities access to certain items offered through GSA’s supply schedules. Specifically, section 211 amends 40 U.S.C. 502 by adding a new subsection “(c)” that

allows, to the extent authorized by the Administrator, a State or local government to use “Federal supply schedules of the General Services Administration for automated data processing equipment (ADPE)(including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).” “State or local government” includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

The proposed rule would establish a new GSAR subpart 538.70 and associated clauses to address cooperative purchasing from supply schedules by eligible non-federal organizations. Among other things, the rule would define the scope of cooperative purchasing, its usage, and applicable terms and conditions, including payment and the handling of disputes.

Limited scope. Because the law specifies that schedule access applies to offerings “contained in Federal supply classification code group 70,” the proposed GSAR changes would limit state and local purchases to the GSA’s Schedule 70 contracts. The rule would not authorize access to ADPE available through GSA schedules other than Schedule 70. In addition, the rule would not apply, nor otherwise affect, supply schedules operated by the Department of Veterans Affairs under a delegation provided by GSA.

Voluntary use. The authority provided in this rule would be available for use on a voluntary (*i.e.*, non-mandatory) basis. In other words, businesses with Schedule 70 contracts would have the option of deciding whether they will accept orders placed by State or local government buyers. Existing Schedule 70 contracts would be modified by mutual agreement of the parties. Even after an existing contract has been modified, a schedule contractor would retain the right to decline orders by State or local government buyers on a case-by-case basis. Future schedule contractors would also be able to decline orders on a case-by-case basis. (Schedule contractors would be able to decline to accept any order, for any reason, within a 5-day period of receipt of the order.) Similarly, the rule would place no obligation on State and local government buyers. They would have full discretion to decide if they wish to make a supply schedule purchase, subject, however, to any limitations that may be established under local law and procedures.