

Services Administration, 1800 F Street NW., Washington, DC 20405. Please provide as much details about the complaint in the communication. Provide contact information where you prefer all communication to be sent. The Privacy Officer will conduct an investigation and consult with appropriate GSA officials and legal counsel to render a decision within 30 workdays of the complaint being received by the privacy office. The decision will be sent by the method the complaint was received.

#### **§ 105–64.802 Can I appeal a decision to a privacy complaint?**

You may file an appeal within 30 workdays of a denial of a privacy complaint by writing to: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW., Washington, DC 20405. Mark both the envelope and appeal letter “Privacy Act Complaint appeal”.

#### **§ 105–64.803 How will my appeal be handled?**

The Privacy Act Officer will consult with legal counsel and the appropriate GSA officials concerning your appeal. The decision will be made by the Senior Agency Official for Privacy. The decision will be sent within 30 workdays of the appeal being received by the privacy office. The decision provided in the appeal letter is the final recourse.

#### **Appendix A to Part 105–64—Addresses for Geographically Dispersed Records**

Address requests for physically dispersed records, as noted in the system of records notices, to the Regional Privacy Act Coordinator, General Services Administration, at the appropriate regional GSA office, as follows:

*Great Lakes Region* (includes Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin), 230 South Dearborn Street, Chicago, IL 60604–1696.

*Greater Southwest Region* (includes Arkansas, Louisiana, Oklahoma, New Mexico, and Texas), 819 Taylor Street, Fort Worth, TX 76102.

*Mid-Atlantic Region* (includes Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, but excludes the National Capital Region), The Strawbridge Building, 20 North 8th Street, Philadelphia, PA 19107–3191.

*National Capital Region* (includes the District of Columbia; the counties of Montgomery and Prince George’s in Maryland; the city of Alexandria, Virginia; and the counties of Arlington, Fairfax, Loudoun, and Prince William in Virginia), 7th and D Streets, SW., Washington, DC 20407.

*New England Region* (includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), 10 Causeway Street, Boston, MA 02222.

*Northeast and Caribbean Region* (includes New Jersey, New York, Puerto Rico, and Virgin Islands), 26 Federal Plaza, New York, NY 10278.

*Northwest/Arctic Region* (includes Alaska, Idaho, Oregon, and Washington), 400 15th Street, SW., Auburn, WA 98001–6599.

*Pacific Rim Region* (includes Arizona, California, Hawaii, and Nevada), 450 Golden Gate Avenue, San Francisco, CA 94102–3400.

*Rocky Mountain Region* (includes Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), U.S. General Services Administration, DFC, Bldg. 41, Rm. 210, P.O. Box 25006, Denver, CO 80225–0006.

*Southeast-Sunbelt Region* (includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), Office of the Regional Administrator (4A), 77 Forsyth Street, Atlanta, GA 30303.

*The Heartland Region* (includes Iowa, Kansas, Missouri, and Nebraska), 1500 East Bannister Road, Kansas City, MO 64131–3088.

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## **GENERAL SERVICES ADMINISTRATION**

### **48 CFR Parts 501, 511, and 552**

[**GSAR Amendment 2009–14; GSAR Case 2007–G507 (Change 42) Docket 2008–0007; Sequence 9**]

RIN 3090–AI74

### **General Services Administration Acquisition Regulation; GSAR Case 2007–G507, Describing Agency Needs**

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

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the GSA Acquisition Regulation (GSAR) to revise language that provide requirements for describing agency needs.

**DATES:** *Effective Date:* January 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Beverly Cromer, Procurement Analyst, at (202) 501–1448. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (MVPR), Room 4041, 1800 F Street, NW., Washington, DC 20405, (202) 501–4755. Please cite Amendment 2005–14, GSAR case 2007–G507 (Change 42).

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

The GSA is amending the GSAR to update the text addressing GSAR part

511, Describing Agency Needs. This rule is a result of the GSA Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the Federal Acquisition Regulation (FAR) and implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

The GSA is rewriting each part of the GSAR and GSAM, and as each GSAR part is rewritten, is publishing it in the **Federal Register**.

This rule covers the rewrite of GSAR part 511, entitled “Describing Agency Needs”. Due to scheduling requirements, a proposed rule was published concurrently with the internal GSA comment process. The proposed rule was published in the **Federal Register** at 73 FR 59590 on October 9, 2008.

#### *Discussion*

The current GSAR part 511 contains—

- Instructions (that are not a solicitation provision) at GSAR 511.104–70 on information to be included after a brand name or equal item description;
- Prescriptions for seven solicitation provisions and contract clauses for GSAR subpart 511.2, entitled “Using and Maintaining Requirements Documents”;
- Prescriptions for eight solicitation provisions and contract clauses for GSAR subpart 511.4, entitled “Delivery or Performance Schedules”;
- A clause prescription at GSAR 511.503; and
- GSAR subpart 511.6, entitled “Priorities and Allocations”, implementing the Defense Priorities and Allocations System (DPAS) for GSA. There is one clause associated with GSAR subpart 511.6.

In addition to changes made in response to the two public comments received in response to the proposed rule (see section C below), a number of additional changes have been made to the final rule as a result of the GSA internal comment process.

In GSAR subpart 511.1, the instructions at GSAR 511.104–70 have been deleted because they are redundant to instructions in the FAR for use of the FAR clause at 52.211–6, Brand Name or Equal, at FAR 11.104(b) and 11.107(a).

In GSAR subpart 511.2, the solicitation provisions and contract clauses at GSAR 511.204 have been

substantially rewritten to accommodate the incorporation of clauses used by the former Federal Supply Service into the GSAR and to revise prescriptions for certain clauses. The clause at GSAR 552.211-71, Standard References, has been deleted in favor of the clause at GSAR 552.211-72, Reference to Specifications in Drawings, which can now be used in construction contracts as well as supply contracts. Four other clauses currently prescribed in GSAR 511.204 are retained with minor edits; they are—

- GSAR 552.211-73, Marking;
  - GSAR 552.211-75, Preservation, Packaging, and Packing, with its Alternate I;
  - GSAR 552.211-76, Charges for Packaging, Packing, and Marking; and
  - GSAR 552.211-77, Packing List.
- A total of 10 new clauses are added to GSAR subpart 511.2 from the Federal Acquisition Service (formerly Federal Supply Service). These clauses, prescribed at GSAR 511.204, are the following:
- GSAR 552.211-85, Consistent Pack and Package Requirements;
  - GSAR 552.211-86, Maximum Weight Per Shipping Container;
  - GSAR 552.211-87, Export Packing;
  - GSAR 552.211-88, Vehicle Export Preparation;
  - GSAR 552.211-89, Non-Manufactured Wood Packaging Material for Export;
  - GSAR 552.211-90, Small Parts;
  - GSAR 552.211-91, Vehicle Decals, Stickers, and Data Plates;
  - GSAR 552.211-92, Radio Frequency Identification (RFID) Using Passive Tags; and
  - GSAR 552.211-93, Unique Item Identification (UID).
  - GSAR 552.211-94, Time of Delivery.

In addition to GSAR 552.211-71, Standard References, discussed above, GSAR clause 552.211-74, Charges for Marking, has been deleted because its substance was incorporated into GSAR 552.211-76, now titled “Charges for Packaging, Packing, and Marking.”

The material in GSAR subpart 511.4 is at GSAR 511.404, “Contract clauses”. This section has been revised to eliminate redundant GSAR clauses and clarify the use and requirements for existing GSAR clauses. Four clauses have been deleted:

GSAR 552.211-8, Time of Delivery. This clause was transferred to GSAR part 538, Federal Supply Schedule Contracting. A new clause with the same number and title, but a different prescription, has been substituted.

GSAR 552.211-78, Commercial Delivery Schedule (Multiple Award

Schedule). This clause was transferred to GSAR part 538, Federal Supply Schedule Contracting.

GSAR 552.211-82, Notice of Shipment. This clause was deleted because it is redundant to various requirements already addressed in the FAR.

GSAR 552.211-84, Non-Compliance with Contract Requirements. The clause was revised to address construction contracts and transferred to the group revising GSAR part 536, Construction.

Four of the eight GSAR subpart 511.2 clauses are retained, with very minor edits:

- GSAR 552.211-79, Acceptable Age of Supplies.
- GSAR 552.211-80, Age on Delivery.
- GSAR 552.211-81, Time of Shipment.
- GSAR 552.211-83, Availability for Inspection, Testing, and Shipment/Delivery.

The proposed rule added the clause entitled “Liquidated Damages for Phased Completion-Construction,” and its prescription at GSAR 511.503, which are deleted from this final rule because they were transferred to the group rewriting GSAR part 536, Construction and Architect-Engineer Contracts.

GSAR subpart 511.6, entitled “Priorities and Allocations”, has been substantially rewritten and clarified using the Defense Priorities Allocation System (DPAS) delegation to GSA from the Department of Commerce (DOC). Scope of GSAR subpart 511.600, includes language from the delegation to GSA that explains the limitations placed on GSA’s use of this authority by DOC. The definitions at GSAR 511.601 have been deleted as unnecessary. GSAR 511.602, General, has been edited and revised to add the language that specifically limits GSA’s actions and authority under the delegation. The procedures for use of the DPAS, at GSAR 511.603, have been strengthened and clarified. In addition, GSAR 511.603 now makes it clear that GSA is to use the clauses at FAR 52.211-54, Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use, and FAR 52.211-15, Defense Priority and Allocation Requirements, without supplementation. These FAR clauses include the definitions and procedures necessary for proper use of DPAS. Thus, the clause at GSAR 552.211-15 and its prescription at GSAR 511.604, are deleted.

#### *Discussion of Comments*

Two public comments were received in response to the proposed rule.

*Comment:* One commenter was concerned that the clause text at GSAR 552.211-84, entitled “Non-Compliance with Contract Requirements”, and re-titled “Non-Compliance with Contract Requirements (Phased Completion of Work)” in the proposed rule, did not even mention phased work. The proposed change, the commenter contended, does not clarify, but rather confuses.

*Response:* The commenter is correct, and this clause and its prescription have been transferred to the GSAR part 536 team, where they have been substantially rewritten and clarified.

*Comment:* A second commenter believes that the clause entitled “Time of Delivery, does not have a prescription for its use included at the cited location (GSAR 511.404(a)).

*Response:* The commenter was correct. An appropriate clause prescription has been included in the text at GSAR 511.404(d).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### **B. Regulatory Flexibility Act**

The General Services Administration certifies that this final 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.*, because while this rule does add new contract clauses, these clauses do not add any new requirements unique to small businesses and have, in fact, been used by what is now the Federal Acquisition Service, formerly the Federal Supply Service, for many years. For these reasons, it is expected that the number of entities impacted by this rule will be minimal.

#### **C. Paperwork Reduction Act**

The Paperwork Reduction Act applies, however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 3090-0203, 3090-0204, and 3090-0246. In fact, two of these information collections are no longer required. GSAR 511.104-70 has been deleted, so OMB Control Number 3090-0203 is no longer required, nor is OMB Control Number 3090-0204, because this rewrite eliminates the former GSAR 511.404(a)(1), 511.404(a)(2), and 511.404(a)(5), 552.211-78, and 552.211-82. However, the information collection

requirement imposed by GSAR 511.204(d), now 511.204(c), has been retained. There are no new information collection requirements in the nine clauses added to those prescribed at GSAR Subpart 511.2.

### List of Subjects in 48 CFR Parts 501, 511, and 552

Government procurement.

Dated: December 8, 2009.

**David A. Drabkin,**

*Senior Procurement Executive, Office of Acquisition Policy, General Services Administration.*

■ Therefore, GSA amends 48 CFR parts 501, 511, and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 501, 511, and 552 continues to read as follows:

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

### PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION SERVICES

#### 501.106 [Amended]

■ 2. Amend section 501.106, in the table, by—

■ a. Removing the GSAR reference number “511.104–70” and its corresponding OMB Control Number “3090–0203”;

■ b. Removing GSAR reference number “511.204(d)” and adding “511.204(c)” in its place; and

■ c. Removing GSAR reference numbers “511.404(a)(1), 511.404(a)(2), 511.404(a)(5), 552.211–8, 552.211–78, and 552.211–82” and their corresponding OMB Control Number “3090–0204”.

### PART 511—DESCRIBING AGENCY NEEDS

#### Subpart 511.1 [Removed]

■ 3. Remove subpart 511.1.

■ 4. Revise section 511.204 to read as follows:

#### 511.204 Solicitation provisions and contract clauses.

(a) *Federal specifications.* The contracting officer shall insert the clause at 552.211–72, Reference to Specifications in Drawings, in solicitations and contracts citing Federal or agency specifications that contain drawings.

(b) *Supply contracts that exceed the simplified acquisition threshold.* (1) 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.

(2) The contracting officer shall include the clause at 552.211–75, Preservation, Packaging, and Packing, in solicitations and contracts for supplies expected to exceed the simplified acquisition threshold. The contracting officer may also include the clause in contracts estimated to be at or below the simplified acquisition threshold when appropriate. The contracting officer shall use Alternate I in solicitations and contracts for—

(i) Federal Supply Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers; or

(ii) Federal Supply Schedules for recovery purchasing (see 538.7102).

(3) The contracting officer shall insert a clause substantially the same as the clause at 552.211–76, Charges for Packaging, Packing, and Marking, in solicitations and contracts for supplies to be delivered to GSA distribution centers.

(4) The contracting officer shall include the clause 552.211–85, Consistent Pack and Package Requirements, 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.

(5) The contracting officer shall include the clause 552.211–86, Maximum Weight Per Shipping Container, 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.

(6) The contracting officer shall include the clause 552.211–87, Export Packing, 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.

(7) The contracting officer shall include the clause 552.211–88, Vehicle Export Preparation, 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.

(8) The contracting officer shall include the clause at 552.211–89, Non-Manufactured Wood Packaging Material for Export, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities overseas and the contract

amount is expected to exceed the simplified acquisition threshold.

(9) The contracting officer shall include the clause 552.211–90, Small Parts, 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.

(10) The contracting officer shall include the clause 552.211–91, Vehicle Decals, Stickers, and Data Plates, 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.

(11) The contracting officer shall include the clause 552.211–92, Radio Frequency Identification (RFID) using Passive Tags, in solicitations and contracts for supplies when deliveries may be made to military activities and the contract amount is expected to exceed the simplified acquisition threshold.

(12) The contracting officer shall include the clause 552.211–93, Unique Item Identification (UID), in solicitations and contracts for supplies when deliveries may be made to military activities and a single item exceeds \$5,000.00 in cost.

(c) *Supply contracts.* The contracting officer shall include the clause at 552.211–77, Packing List, in solicitations and contracts for supplies, including purchases over the micropurchase threshold. Use Alternate I in solicitations and contracts for—

(1) FSS Schedule 70 and the Consolidated Products and Services Schedule containing information technology Special Item Numbers; or

(2) Federal Supply Schedules for recovery purchasing (see 538.7102).

■ 5. Revise section 511.404 to read as follows:

#### 511.404 Contract clauses.

In supply contracts, the contracting officer shall use the clauses as specified in this section.

(a) *Shelf-life items.* The contracting officer shall use the following clauses in solicitations and contracts that require delivery of shelf-life items within a specified number of months from the date of manufacture or production:

(1) The contracting officer shall insert 552.211–79, Acceptable Age of Supplies, if the required shelf-life period is 12 months or less, and lengthy acceptance testing may be involved. For items having a limited shelf-life, substitute Alternate I when required by the director of the portfolio concerned.

(2) The contracting officer shall insert 552.211–80, Age on Delivery, if the required shelf-life period is more than 12 months, or when source inspection can be performed within a short time period.

(b) *Stock replenishment contracts.* The contracting officer shall insert 552.211–81, Time of Shipment, in solicitations and stock replenishment contracts that do not include the Availability for Inspection, Testing, and Shipment/Delivery clause at 552.211–83 and require shipment within 45 calendar days after receipt of the order. If shipment is required in more than 45 days, the contracting officer shall use Alternate I.

(c) *Indeterminate testing time.* The contracting officer shall insert 552.211–83, Availability for Inspection, Testing, and Shipment/Delivery, in solicitations and contracts that provide for source inspection by Government personnel and that require lengthy testing for which time frames cannot be determined in advance. If the contract is for stock items, the contracting officer shall use Alternate I.

(d) The contracting officer shall insert the clause at 552.211–94, Time of Delivery, in solicitations and contracts for supplies for the Stock Program when neither of the FAR delivery clauses (FAR 52.211–8 or 52.211–9) is suitable.

■ 6. Revise section 511.600 to read as follows:

**511.600 Scope of subpart.**

Pursuant to the Defense Priorities and Allocations System (DPAS) Delegation 3, the Department of Commerce (DOC) has delegated to GSA the authority to use the DPAS under certain conditions. DPAS Delegation 3 restricts use of DPAS authority to GSA supply system procurement in support of the Department of Defense (DoD), Department of Energy (DoE), and Federal Emergency Management Agency (FEMA) approved programs.

**511.601 [Removed and Reserved]**

■ 7. Remove and reserve section 511.601.

■ 8. Revise section 511.602 to read as follows:

**511.602 General.**

(a) The purpose of the DPAS is to assure the timely availability of industrial resources to meet current national defense, energy, and civil emergency preparedness program requirements and to provide an operating system to support rapid industrial response in a national emergency. The primary statutory authority for the DPAS is Title I of the

Defense Production Act of 1950, as amended, with additional authority from the Selective Service Act of 1948 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Executive Orders 12919 and 12742 delegate to the DOC authority to administer the DPAS. Within the DOC, the Office of Strategic Industries and Economic Security (SIES) is assigned responsibility for DPAS implementation, administration, and compliance.

(b) The DPAS is published in the Code of Federal Regulations at 15 CFR part 700. This regulation provides an overview, a detailed explanation of operations and procedures, and other implementing guidance, including information on special priorities assistance and compliance.

(c) Orders placed under DPAS are “rated orders.” Rated orders must receive preferential treatment only as necessary to meet delivery requirements. Rated orders are identified by a rating symbol of either “DX” or “DO” followed by a program identification symbol. All “DO” rated orders have equal priority with each other and take preference over unrated orders. All “DX” rated orders have equal priority with each other and take preference over “DO” rated orders and unrated orders. A program identification symbol indicates which approved program is supported by the rated order.

(d) The authority delegated to GSA shall not be used to support the procurement of any items that—

(1) Are commonly available in commercial markets for general consumption;

(2) Do not require major modification when purchased for approved program use;

(3) Are readily available in sufficient quantity so as to cause no delay in meeting approved program requirements; or

(4) Are to be used primarily for administrative purposes (including Federal Supply Classification (FSC) classes, groups, or items), such as for personnel or financial management. The Commissioner, FAS, shall issue additional guidance, as may be necessary, to ensure effective implementation of its delegated DPAS authority.

■ 9. Revise section 511.603 to read as follows:

**511.603 Procedures.**

(a) A DPAS rating may be placed against an entire contract at time of award or an individual order issued under an existing, otherwise unrated, contract. FAR 11.604 requires

contracting officers to insert the provision at 52.211–14, Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use, in solicitations when the contract or order to be awarded will be a rated order and to insert the clause at 52.211–15, Defense Priority and Allocation Requirements, in contracts that are rated orders.

(b) In addition to the FAR provision and clause referenced in paragraph (a) of this section, the contract or order must include the following (*see* 15 CFR 700.12):

(1) The appropriate priority rating symbol (*i.e.*, either “DO” or “DX”) along with the program identification symbol. When GSA contracting officers place DO rated orders, they must use program identification symbol “K1”. When placing a DX-rated order for other agencies, GSA contracting officers must use the requesting agency program identification symbol from the DoD Master Urgency List and may only do so when GSA is acting as the procuring agent for DoD or DoE and has received a “DX” rated contract or order from either department.

(2) A required delivery date. The words “as soon as possible” or “immediately” do not constitute a required delivery date. Use of either a specific date or a specified number of days ARO (after receipt of order) is acceptable.

(3) The written signature on a manually placed order, or the digital signature or name on an electronically placed order of an individual authorized to place rated orders.

(4) A statement that reads substantially as follows: “This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR part 700)”.

(c) Multiple and Single Award Schedule contracts are not rated at time of award.

**511.604 [Removed]**

■ 10. Remove section 511.604.

**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**552.211–8 [Removed]**

■ 11. Remove section 552.211–8.

**552.211–15 [Removed]**

■ 12. Remove section 552.211–15.

**552.211–71 [Removed and Reserved]**

■ 13. Remove and reserve section 552.211–71.

**552.211-72 [Amended]**

■ 14. Amend section 552.211-72 by removing from the introductory paragraph "511.204(b)" and adding "511.204(a)" in its place.

**552.211-73 [Amended]**

■ 15. Amend section 552.211-73 by removing from the introductory paragraph "511.204(c)(1)" and adding "511.204(b)(1)" in its place.

**552.211-74 [Removed and Reserved]**

■ 16. Remove and reserve section 552.211-74.

**552.211-75 [Amended]**

■ 17. Amend section 552.211-75 by removing from the introductory paragraph and the Alternate I introductory paragraph "511.204(c)(3)" and adding "511.204(b)(2)" in its place (twice).

■ 18. Revise section 552.211-76 to read as follows:

**552.211-76 Charges for packaging, packing, and marking.**

As prescribed in 511.204(b)(3), insert a clause substantially as follows:

**Charges for Packaging, Packing, and Marking (Jan 2010)**

If supplies shipped to a GSA wholesale distribution center are not packaged, packed and marked in accordance with contract requirements, the Government has the right, without prior notice to the Contractor, to perform the required repackaging/repacking/remarking, by contract or otherwise, and charge the Contractor therefore at the rate of \$ \_\_\_\_\_ \* per man-hour or fraction thereof. The Contractor will also be charged for material costs, if incurred. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

(End of clause)

\*The rate to be inserted in the above clause shall be determined by the Commissioner, Federal Acquisition Service, or a designee.

**552.211-77 [Amended]**

■ 19. Amend section 552.211-77 by removing from the introductory paragraph "511.204(d)" and adding "511.204(c)" in its place.

**552.211-78 [Removed and Reserved]**

■ 20. Remove and reserve section 552.211-78.

**552.211-79 [Amended]**

■ 21. Amend section 552.211-79 by removing from the introductory paragraph "511.404(a)(3)(i)" and adding "511.404(a)(1)" in its place.

**552.211-80 [Amended]**

■ 22. Amend section 552.211-80 by removing from the introductory paragraph "511.404(a)(3)(ii)" and adding "511.404(a)(2)" in its place.

**552.211-81 [Amended]**

■ 23. Amend section 552.211-81 by removing from the introductory paragraph "511.404(a)(4)" and adding "511.404(b)" in its place.

**552.211-82 [Removed and Reserved]**

■ 24. Remove and reserve section 552.211-82.

**552.211-83 [Amended]**

■ 25. Amend section 552.211-83 by removing from the introductory paragraph "511.404(a)(6)" and adding "511.404(c)" in its place.

**552.211-84 [Removed and Reserved]**

■ 26. Remove and reserve section 552.211-84.

■ 27. Add sections 552.211-85 through 552.211-94 to read as follows:

**552.211-85 Consistent pack and package requirements.**

As prescribed in 511.204(b)(5), insert the following clause:

**Consistent Pack and Package Requirements (Jan 2010)**

The Contractor is advised that the Government will, where possible, order in full shipping containers and/or unitized loads. If volume warrants, the Government may also order in truckload or carload quantities provided such quantities do not exceed the maximum order limitation of this contract.

When the number of items per unit container, intermediate container and/or shipping container is not specified for an item, the offeror will state, in the spaces provided in the schedule of items, the number of items to be provided in each container. The quantities which are accepted at the time of award shall remain in effect throughout the term of the contract unless the Contracting Officer approves in writing a request by the Contractor to change the package quantities. Requests for changes shall be directed to the Contracting Officer or Administrative Contracting Officer, whichever is applicable.

(End of clause)

**552.211-86 Maximum weight per shipping container.**

As prescribed in 511.204(b)(6), insert the following clause:

**Maximum Weight per Shipping Container (Jan 2010)**

In no instance shall the weight of a shipping container and its contents exceed 23 kilograms (51 pounds), except when caused by—

(1) The weight of a single item within the shipping container;

(2) A prescribed quantity per pack for an item per shipping container; or

(3) A definite weight limitation set forth in the purchase description.

(End of clause)

**552.211-87 Export packing.**

As prescribed in 511.204(b)(7), insert the following clause:

**Export Packing (Jan 2010)**

(a) Offerors are requested to quote, in the pricelist accompanying their offer (or by separate attachment), additional charges or net prices covering delivery of the items furnished with commercial or military export packing. Military export packing, if offered, shall be in accordance with Mil-Std-2073-1 Level A or B as specified. If commercial export packing is offered, the offer or pricelist shall include detailed specifications describing the packing to be furnished at the price quoted.

(b) Ordering activities will not be obligated to utilize the Contractor's services for export packing accepted under this solicitation, and they may obtain such services elsewhere if desired. However, the Contractor shall furnish items export packed when such packing is specified on the purchase order.

(End of clause)

**552.211-88 Vehicle export preparation.**

As prescribed in 511.204(b)(8), insert the following clause:

**Vehicle Export Preparation (Jan 2010)**

Vehicles shall be prepared for export on wheels, unboxed, unless otherwise specified in the Schedule of Items. All parts and equipment easily removable (subject to pilferage) shall be enclosed in a box substantially secured to the vehicle (inside body if feasible) in such a manner as to minimize the possibility of loss or damage while in transit to ultimate destination.

(End of clause)

**552.211-89 Non-manufactured wood packaging material for export.**

As prescribed in 511.204(b)(4), insert the following clause:

**Non-Manufactured Wood Packaging Material for Export (Jan 2010)**

(a) *Definitions:*

*IPPC Country:* Countries of the European Union (EU) or any other country endorsing the International Plant Protection Convention (IPPC) "Guidelines for Regulating Wood Packaging Material in International Trade," approved March 15, 2002. A listing of countries participating in the IPPC is found at [http://www.aphis.usda.gov/import\\_export/plants/plant\\_exports/wpm/country/index.shtml](http://www.aphis.usda.gov/import_export/plants/plant_exports/wpm/country/index.shtml).

*Non-manufactured wood,* is also called solid wood and defined as wood packing other than that comprised wholly of wood-based products such as plywood, particle

board, oriented strand board, veneer, wood wool, and similar materials, which has been created using glue, heat and pressure or a combination thereof.

*Packaged material, and solid wood packing material (SWPM)*, for purposes of this clause, is defined as each separate and distinct material that by itself or in combination with other materials forms the container providing a means of protecting and handling a product. This includes, but is not limited to, pallets, dunnage, crating, packing blocks, drums, load boards, pallet collars, and skids.

(b) Non-manufactured wood pallets and other non-manufactured wood packaging material used to pack items for delivery to or through IPPC countries must be marked and properly treated in accordance with IPPC guidelines.

(c) This requirement applies whether the shipment is direct to the end user or through a Government designated consolidation point. Packaging that does not conform to IPPC guidelines will be refused entry, destroyed or treated prior to entry.

(d) For Department of Defense distribution facilities or freight consolidation points, all non-manufactured wood pallets or packaging material with a probability of entering countries endorsing the IPPC Guidelines must be treated and marked in accordance with DLAD 47.305-1 (available at <http://www.dla.mil/j-3/j-3311/DLAD/rev5.htm>), and MIL-STD-2073-1, Standard Practice for Military Packaging (and any future revision).

(e) Pallets and packing material shipped to FAS distribution facilities designated for possible delivery to the countries endorsing the IPPC Guidelines will comply with DLAD 47.305-1, and MIL-STD-2073-1.

(f) Delays in delivery caused by non-complying pallets or wood package material will not be considered as beyond the control of the Contractor. Any applicable Government expense incurred as a result of the Contractor's failure to provide appropriate pallets or package material shall be reimbursed by the Contractor. Expenses

may include the applicable cost for repackaging, handling and return shipping, or the destruction of solid wood packaging material.

(End of clause)

**552.211-90 Small parts.**

As prescribed in 511.204(b)(9), insert the following clause:

**Small Parts (Jan 2010)**

All small parts required to be furnished with machines covered by contracts resulting from this solicitation shall be packed in envelopes, sealed, identified with part numbers and quantity on outside of envelopes. Larger parts must be individually tagged and identified with part number on face of tag.

(End of clause)

**552.211-91 Vehicle decals, stickers, and data plates.**

As prescribed in 511.204(b)(10), insert the following clause:

**Vehicle Decals, Stickers, and Data Plates (Jan 2010)**

Unless otherwise specified, caution plates/decals shall be conspicuously installed for all equipment requiring such notices. Vehicles for civil agencies shall be provided with the manufacturer's current warranty legend imprinted on decalomania, and applied in a visible area of the engine compartment. In addition, a decal or sticker shall provide at least the following information: contract number; purchase order number; date of delivery, month and year; and the warranty time, in month and miles.

(End of clause)

**552.211-92 Radio Frequency Identification (RFID) using passive tags.**

As prescribed in 511.204(b)(11), insert the following clause:

**Radio Frequency Identification (RFID) Using Passive Tags (Jan 2010)**

Radio Frequency Identification shall be required on all non-bulk shipments to the Defense Logistics Agency (DLA) or Department of Defense (DoD) destinations. Shipments shall be tagged in accordance with 48 CFR clause 252.211-7006. Shipments to GSA Distribution Centers with final destinations to DLA and DoD shall be in compliance to 48 CFR 252.211-7006. Copies may be obtained from <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>.

(End of clause)

**552.211-93 Unique Item Identification (UID).**

As prescribed in 511.204(b)(12), insert the following clause:

**Unique Item Identification (UID) (Jan 2010)**

Unique Item Identification shall be required on tangible personal property in accordance with DFARS 211.274-4 as requested by the Defense Logistics Agency (DLA) or Department of Defense (DOD). Item Property that falls within this criterion shall be valued and identified in accordance with DFARS 252.211-7003. Details shall be found in DFARS 252.211-7007. Copies can be obtained from <http://www.access.gpo.gov> the 48 Code of Federal Regulations.

(End of clause)

**552.211-94 Time of delivery.**

As prescribed at 511.404(d), insert the following clause:

**Time of Delivery (Jan 2010)**

An "X" mark in the left hand block shall be considered a mandatory requirement to be fulfilled by the contractor.

The Contractor will ship contract item(s) to the Federal Acquisition Service (FAS) stocking points identified in the delivery order at its discretion in order to maintain the required stock levels within the minimum and maximum requirements provided in the weekly status report.  
 Delivery is required to be made at destination within \* \_\_\_\_ \* calendar days after receipt of order for deliveries to a GSA facility. Orders under this contract may require direct delivery to other agencies. Orders for direct delivery must be shipped and delivered within the time specified in blocks below.  
 Shipment must be made with \* \_\_\_\_ \* days after receipt of order.  
 In addition to block above the Contractor must also ensure that delivery will be made within \* \_\_\_\_ \* days after receipt of order.

(End of clause)

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**DEPARTMENT OF VETERANS  
AFFAIRS**

**48 CFR Parts 802, 804, 808, 809, 810,  
813, 815, 817, 819, 828, and 852**

**RIN 2900-AM92**

**VA Acquisition Regulation: Supporting  
Veteran-Owned and Service-Disabled  
Veteran-Owned Small Businesses**

*Correction*

In rule document E9-28461 beginning  
on page 64619 in the issue of Tuesday,

December 8 make the following  
correction:

On page 64619, in the third column,  
under the **DATES** heading, in the first  
line, "January 7, 2010" should read  
"*Effective date: January 7, 2010*".

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