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

As prescribed in 538.7204 (b), insert the following clause:

Special Ordering Procedures for the Acquisition of Order-Level Materials (Sep 2024)

(a) *Definition.*

Order-level materials, as used in this clause supplies and/or services acquired in direct support of an individual task or delivery order placed against a Federal Supply Schedule (FSS) contract or FSS blanket purchase agreement (BPA), when the supplies and/or services are not known at the time of Schedule contract or FSS BPA award. The prices of order-level materials are not established in the FSS contract or FSS BPA. Order-level materials acquired following the procedures in paragraph (d) of this clause are done so under the authority of the FSS program, pursuant to 41 U.S.C. 152(3), and are not open market items, which are discussed in FAR 8.402(f).

(b) FAR 8.403(b) provides that GSA may establish special ordering procedures for a particular FSS.

(c) The procedures in FAR subpart 8.4 apply to this contract, with the exceptions listed in this clause. If a requirement in this clause is inconsistent with FAR subpart 8.4, this clause takes precedence pursuant to FAR 8.403(b).

(d) Procedures for including order-level materials when placing an individual task or delivery order against an FSS contract or FSS BPA.

(1) The procedures discussed in FAR 8.402(f) do not apply when placing task and delivery orders that include order-level materials.

(2) Order-level materials are included in the definition of the term “material” in FAR clause 52.212-4 Alternate I, and, therefore, all provisions of FAR clause 52.212-4 Alternate I that apply to “materials” also apply to order-level materials.

(3) Order-level materials shall only be acquired in direct support of an individual task or delivery order and not as the primary basis or purpose of the order.

(4) The value of order-level materials in a task or delivery order, or the cumulative value of order-level materials in orders against an FSS BPA awarded under a FSS Contract shall not exceed 33.33%.

(5) All order-level materials shall be placed under the Order-Level Materials SIN.

(6) Prior to the placement of an order that includes order-level materials, the Ordering Activity shall follow the procedures in FAR 8.404(h).

(7) To support the price reasonableness of order-level materials–

(i) The Contractor proposing order-level materials as part of a solution shall obtain a minimum of three quotes for each order-level material above the simplified acquisition threshold.

(A) One of these three quotes may include materials furnished by the Contractor under paragraph (i)(1)(ii)(A) of FAR clause 52.212-4 Alternate I.

(B) If the Contractor cannot obtain three quotes, the Contractor shall maintain its documentation of why three quotes could not be obtained to support their determination.

(C) A Contractor with an approved purchasing system, per FAR subpart 44.3, shall instead follow its purchasing system requirement and is exempt from the requirements in paragraphs (d)(7)(i)(A) through (B) of this clause.

(ii) The Ordering Activity Contracting Officer must make a determination that prices for all order-level materials are fair and reasonable. The Ordering Activity Contracting Officer may base this determination on a comparison of the quotes received in response to the task or delivery order solicitation or other relevant pricing information available.

(iii) If indirect costs are approved per paragraph (i)(1)(ii)(D)(2) of FAR clause 52.212-4 Alternate I, the Ordering Activity Contracting Officer must make a determination that all indirect costs approved for payment are fair and reasonable. Supporting data shall be submitted in a form acceptable to the Ordering Activity Contracting Officer.

(8) Prior to an increase in the ceiling price of order-level materials, the Ordering Activity Contracting Officer shall follow the procedures at FAR 8.404(h)(3)(iv).

(9) In accordance with GSAR clause 552.238-83, Examination of Records by GSA (Federal Supply Schedules), GSA has the authority to examine the Contractor's records for compliance with the pricing provisions in FAR clause 52.212-4 Alternate I, to include examination of any books, documents, papers, and records involving transactions related to the contract for overbillings, billing errors, and compliance with the Industrial Funding Fee (IFF) and the Sales Reporting clauses of the contract.

(10) Order-level materials are exempt from the following clauses:

(i) 552.238-77 Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists.

(ii) 552.238-81 Price Reductions.

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

(End of clause)

Parent topic: 552.238 [Reserved]