

# 512.203 Procedures for solicitation, evaluation, and award.

(a) *Federal Supply Schedule contracts.* For Federal Supply Schedule contracts, the contracting officer shall use the policies in FAR 12 and this [part 512](#) in conjunction with the policies and procedures in FAR 38 and [part 538](#). See , Use of Bid Samples, if applicable.

(b) *Deregulated/Competitive Acquisitions for Natural Gas and Electricity.* For deregulated/competitive acquisitions, the contracting officer shall use policies and procedures in FAR 12 and this [part 512](#) in conjunction with the policies and procedures in FAR 41.202 (a) and (b), the review requirements of FAR 41, and GSAM [part 541](#), as applicable.

(c) *Construction as a commercial item.* The provisions and clauses in FAR 36 and GSAM [part 536](#) address the fundamental aspects of construction contracting. FAR 36 and GSAM [part 536](#) apply well-established commercial principles that are designed to result in an equitable distribution of risk between the Government and its contractors. The contracting officer should consider the following when contemplating a construction acquisition as a commercial item—

(1) FAR 12, as currently promulgated, should rarely be used for new construction acquisitions or non-routine alteration and repair services.

(2) FAR 12 and GSAM [part 512](#) may be used in limited circumstances involving construction contracting, primarily for routine alteration and repair services as well as for the acquisition of commercial construction materials and associated ancillary services. It may be appropriate to use FAR 12 and GSAM [part 512](#) for routine projects such as painting or carpeting, simple hanging of drywall, everyday electrical or plumbing work, and similar noncomplex services, as well as for purchases of commercial construction material and associated ancillary services.

(3) Whether a construction acquisition is conducted under FAR 36 or FAR 12, the contracting officer must adhere to the policies of FAR Subpart 22.4. This subpart addresses labor standards for contracts involving construction. Prior to making the determination that a construction acquisition can be conducted as a commercial item, the contracting officer should conduct appropriate market research in accordance with FAR 10 and GSAM .

(4) Construction contracts in excess of \$2,000 must include an applicable Construction Wage Rate Requirements statute wage determination found at <https://www.wdol.gov>. If the construction contract is greater than \$30,000, then the SF 1442 should be used in lieu of the SF 1449 and the bonds or alternate payment protection provisions of FAR 28.102-1, 28.102-2 and 28.102-3 apply.

(5) Construction contracts awarded as commercial item acquisitions should not exceed the prospectus threshold. The prospectus threshold as referenced in section 102-73.35 of the Federal Management Regulation (FMR) is posted at <https://www.gsa.gov/annualprospectusthreshold>.

(d) *Acquisitions with Commercial Supplier Agreements.* For acquisitions with commercial supplier agreements, the deviated commercial items clause [552.212-4](#) as prescribed in [512.301](#) addresses common commercial terms that conflict with Federal law and makes the terms unenforceable against the Government. The contracting officer is responsible for:

- (1) Identifying objectionable terms not covered by the deviated clause;
- (2) Negotiating terms as necessary to meet the Government's needs; and
- (3) Documenting the full commercial supplier agreement, including referenced terms, as

addenda to the contract (see [504.803\(b\)\(23\)](#)).

**Parent topic:** [Subpart 512.2 - Special Requirements for the Acquisition of Commercial Items](#)