

## GSA ORDER

**Subject:** General Services Administration Acquisition Manual; GSAM Part 536, Construction and Architect-Engineer Contracts, GSAR Case 2015-G508, Removal of Unnecessary Construction Clauses and Editorial Changes

1. **Purpose.** This order transmits a revision to the General Services Administration Acquisition Manual (GSAM)
2. **Background.** The General Services Administration amends the GSAM to revise the language of the following GSAM subparts:
  - 536.1 (General)
  - 536.2 (Special Aspects of Contracting for Construction)
  - 536.5 (Contract Clauses)
  - 552.2 (Text of Provisions and Clauses)

This amendment includes the removal of three sections and seven GSAR Subpart 536.5 supplemental provisions and clauses that are no longer necessary for the agency. This amendment includes regulatory and non-regulatory changes.

The Proposed Rule for GSAR Case 2015-G508 was published in the Federal Register on July 30, 2015 at 80 FR 45498.

3. **Effective date.** Date of Signature.
4. **Explanation of changes.** The GSAM subparts 536.1, 536.2, 536.5, and 552.2 are amended as follows:

GSAM 536.1 (General):

- 536.101, Applicability: Revised to add language at GSAM Section 536.101 to clarify applicability of this part. Specifically identifying that Construction Management (CM) services are covered under GSAM Part 537 rather than GSAM Part 536 is necessary to eliminate confusion for the GSA acquisition workforce.

**GSAM 536.2 (Special Aspects of Contracting for Construction):**

- 536.201, Evaluation of contractor performance: This section is being deleted in its entirety as the content is covered in FAR Subpart 42.15, updated July 1, 2009 through FAR Case 2006-022. The current FAR coverage does not require further agency implementation or supplementation.
- 536.202, Specifications: This section is being deleted in its entirety as the content is adequately covered elsewhere in GSAM Part 523 and FAR Part 23.
- 536.203, Government estimate of construction cost: Revised to replace “you” with “contracting officer” to ensure clarity.
- 536.204, Disclosure of magnitude of construction projects: Revised to replace “you” with “contracting officer” to ensure clarity.
- 536.271, Project labor agreements: The coverage on project labor agreements is being deleted in its entirety as Executive Order 13202 revoked the June 5, 1997 Presidential Memorandum entitled “Use of Project Labor Agreements for Federal Construction Projects” that provided for the original inclusion in the GSAM. In addition, later PLA guidance from Executive Order 13502 was incorporated into the FAR effective May 13, 2010 under FAR Case 2009-005. The GSAM language is out of date and conflicts with FAR Subpart 22.5 and FAR Clause 52.222-33. The current FAR coverage does not require further agency implementation or supplementation.

**GSAM 536.5 (Contract Clauses):**

- 536.570-3, Specialist: This prescription is being deleted in its entirety. The specialist definition is contained in the scope of work or specification for a contract or task order and does not warrant a regulatory clause.
- 536.570-5, Working hours: This prescription is being deleted in its entirety. The working hours requirement is a technical detail contained in the scope of work or specification for a contract or task order. Working hours are also covered in FAR Subparts 22.3 and 22.4. This agency regulatory clause is not warranted.
- 536.570-6, Use of premises: This prescription is being deleted in its entirety. The use of premises requirement is a technical detail contained in the scope of work or specification for a contract or task order and does not warrant a regulatory clause.
- 536.570-7, Measurements: This prescription is being deleted in its entirety. The measurements requirement is a technical detail contained in the scope of work or specification for a contract or task order and does not warrant a regulatory clause.
- 536.570-10, Samples: This prescription is being deleted in its entirety. Samples are a type of submittal. Submittal requirements are contained in the scope of work or specification for a contract or task order. Submittals are also covered under FAR Subpart 42.3 and FAR Clause 52.246-12. This agency regulatory clause is not warranted.
- 536.570-11, Heat: This prescription is being deleted in its entirety. The heat requirement is a technical detail contained in the scope of work or specification for a contract or task order and does not warrant a regulatory clause.

- 536.570-14, Requirement for a project labor agreement: This prescription is being deleted in its entirety. The GSAM language is out of date and conflicts with FAR Subpart 22.5 and FAR Clause 52.222-33. The current FAR coverage does not require further agency implementation or supplementation.

GSAM 552.2 (Text of Provisions and Clauses):

- 552.236-72, Specialist: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-3.
- 552.236-74, Working hours: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-5.
- 552.236-75, Use of premises: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-6.
- 552.236-76, Measurements: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-7.
- 552.236-79, Samples: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-10.
- 552.236-80, Heat: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-11.
- 552.236-83, Requirement for a project labor agreement: This clause is being deleted in its entirety. See further explanation above for prescription 536.570-14.



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GSAR Case 2015-G508  
“Removal of Unnecessary Construction Clauses and Editorial Changes”

TAB A –GSAR Text, Line-In/Line-Out

**GSAM Baseline: Change 66 effective 09/25/2015**

- Additions to baseline made by proposed rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by proposed rule are indicated by ~~strikethroughs~~
- Additions to baseline made by final rule are indicated by **[bold and underlined text in brackets]**
- Deletions to baseline made by final rule are indicated by ~~strikethroughs and underlined~~
- Five asterisks (\*\*\*\*\* ) indicate that there are no revisions between the preceding and following sections
- Three asterisks (\*\*\*) indicate that there are no revisions between the material shown within a subsection

**PART 536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

**Subpart 536.1—General**

**536.101 Applicability.**

[This part supplements FAR Part 36 policies and procedures applicable to contracting for construction and architect-engineer services. Contracts for construction management services are covered by FAR Part 37 and GSAM Part 537. Part 536 shall take precedence when the acquisition involves (1) construction or architect-engineer services, and (2) when the requirement is inconsistent with another part of the GSAR.] ~~¶ If a requirement in this part is inconsistent with a requirement in another GSAR part, this part takes precedence.~~

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**Subpart 536.2—Special Aspects of Contracting for Construction**

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**536.271 [Reserved] Project labor agreements.**

~~(a) Authority.~~ This subpart implements the Presidential memorandum of June 5, 1997, on using project labor agreements (PLAs) on Federal construction projects. The Presidential memorandum authorizes executive departments and agencies to require PLAs on large and significant construction projects for facilities to be owned by a Federal department or agency.

~~(b) Applicability.~~ These policies and procedures apply to all GSA activities authorized to award contracts for construction of facilities to be owned by a Federal department or agency. You may use a PLA in leasehold arrangements, Federally funded projects, and other appropriate circumstances.

~~(c) Definitions.~~

~~“Construction” means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. The terms buildings, structures, or other real property are defined further in Federal Acquisition Regulation (FAR) 36.102.~~

~~“Labor organization” means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, and any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization (42 U.S.C. 2000e(d)).~~

“Large and significant project” means a Federal construction project with a total cost to the Federal Government of more than \$5 million.

“Project Labor Agreement” (PLA) means an agreement between the contractor, subcontractors, and the union(s) representing workers. Under a PLA, the contractor and subcontractors on a project and the union(s) agree on terms and conditions of employment for the project, establishing a framework for labor-management cooperation to advance the Government’s procurement interest in cost, efficiency, and quality.

~~(d) Policy.~~

~~(1) You may, on a project-by-project basis, use a PLA on a large and significant project when both of the following conditions apply:~~

- ~~(i) A PLA will advance the Government’s procurement interests.~~
- ~~(ii) No laws that apply to the specific construction project preclude the use of the PLA.~~

~~(2) Do not require any contractor to enter into a PLA with any particular labor organization.~~

~~(3) The use of a PLA is not intended to create any right or benefit, substantive or procedural, enforceable by a nonfederal party against the United States, its departments, and agencies, its officers or employees, or any other person.~~

~~(e) Procedures.~~

~~(1) As part of procurement planning for construction projects with a total estimated cost to the Federal Government of more than \$5 million, you may consider requiring a PLA.~~

~~(2) To require a PLA, you must determine whether use of a PLA will advance the Government’s procurement interests in all the following areas:~~

- ~~(i) Cost, efficiency, and quality.~~
- ~~(ii) Promoting labor-management stability.~~
- ~~(iii) Promoting compliance with applicable legal requirements governing safety and health, equal employment opportunity, labor and employment standards, and other matters.~~

~~(3) In making the determination required by paragraph (b) of this section, consult with the agency project or program manager and obtain guidance from the Agency Labor Advisor and assigned legal counsel. You should consider the following factors:~~

- ~~(i) Whether past experience with construction projects in the location where the project will be performed indicates that a PLA will be effective.~~
- ~~(ii) Whether delays in performance of the construction contract would have significant adverse impact on the mission of the agency or operation of the installation or facility.~~
- ~~(iii) Whether any law applies to the specific construction project that would impede use of a PLA.~~
- ~~(iv) Whether the labor organizations in the area can provide a reliable source of skilled, experienced building trades workers in all crafts needed on the job site for the project’s duration (taking into consideration other major construction work in the area).~~
- ~~(v) Whether the Government can benefit from uniform work rules and working conditions and established procedures for resolving labor disputes, no strike/no lock-out protections.~~
- ~~(vi) Whether the Government can benefit from increased stability and labor peace that derives from greater labor-management cooperation.~~
- ~~(vii) Whether the requirements for a PLA will unreasonably restrict competition.~~
- ~~(viii) Other relevant information.~~

~~(4) Document the rationale supporting your decision to require a PLA in the contract file.~~

~~(5) Provide the following information to the Agency Labor Advisor (GSA Acquisition Policy Division (MVP)):~~

- ~~(i) A brief description of the project.~~
- ~~(ii) The estimated cost.~~
- ~~(iii) A copy of the document supporting your decision to require a PLA.~~
- ~~(iv) A copy of the solicitation.~~

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## Subpart 536.5—Contract Clauses

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536.570-3 [Reserved] Specialist.

~~Insert [Specialist](#), in solicitations and contracts for construction if the technical sections of the contract require unusual experience or specialized facilities for adequate contract performance.~~

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~~**536.570-5 [Reserved] Working hours.**~~

~~Insert [552.236-74](#), Working Hours, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.~~

~~**536.570-6 [Reserved] Use of Premises.**~~

~~Insert [552.236-75](#), Use of Premises, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.~~

~~**536.570-7 [Reserved] Measurements.**~~

~~Insert [552.236-76](#), Measurements, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.~~

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~~**536.570-10 [Reserved] Samples.**~~

~~Insert the clause at [552.236-79](#), Samples, in solicitations and contracts for construction if the technical sections of the contract require the submission and approval of samples.~~

~~**536.570-11 [Reserved] Heat.**~~

~~Insert the clause at [552.236-80](#), Heat, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.~~

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~~**536.570-14 Requirement for a project labor agreement.**~~

~~Insert a clause substantially the same as [552.236-83](#), Requirement for a Project Labor Agreement, in solicitations and contracts that will require a project labor agreement.~~

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

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**Subpart 552.2—Text of Provisions and Clauses**

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**552.236-72 [Reserved] Specialist.**

As prescribed in [536.570-3](#), insert the following clause:

SPECIALIST (APR 1984)

The term "Specialist," as used in the contract specification, shall mean an individual or firm of established reputation (or, if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workmen skilled in either (as applicable) manufacturing or fabricating items required by the contract, installing items required by the contract, or otherwise performing work required by the contract. Where the contract specification requires installation by a specialist, that term shall also be deemed to mean either the manufacturer of the item, an individual or firm licensed by the manufacturer, or an individual or firm who will perform the work under the manufacturer's direct supervision.

(End of clause)

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**552.236-74 [Reserved] Working hours.**

As prescribed in [536.570-5](#), insert the following clause:

WORKING HOURS (APR 1984)

(a) It is contemplated that all work will be performed during the customary working hours of the trades involved unless otherwise specified in this contract. Work performed by the Contractor at his own volition outside such customary working hours shall be at no additional expense to the Government.

(b) Any requests received by the Contractor from occupants of existing buildings to change the hours of work shall be referred to the Contracting Officer for determination.

(End of clause)

**552.236-75 [Reserved] Use of Premises.**

As prescribed in [536.570-6](#), insert the following clause:

USE OF PREMISES (APR 1984)

(a) If the premises are occupied, the Contractor, his subcontractors, and their employees shall comply with the regulations governing access to, operation of, and conduct while in or on the premises and shall perform the work required under this contract in such a manner as not to unreasonably interrupt or interfere with the conduct of Government business.

(b) Any request received by the Contractor from occupants of existing buildings to change the sequence of work shall be referred to the Contracting Officer for determination.

(c) If the premises are occupied, the Contractor, his subcontractors and their employees shall not have access to or be admitted into any building outside the scope of this contract except with official permission.

(End of clause)

**552.236-76 [Reserved] Measurements.**

As prescribed in [536.570-7](#), insert the following clause:

MEASUREMENTS (APR 1984)

All dimensions shown of existing work and all dimensions required for work that is to connect with work now in place, shall be verified by the Contractor by actual measurement of the existing work. Any discrepancies between the contract requirements and the existing conditions shall be referred to the Contracting Officer before any work affected thereby has been performed.

(End of clause)

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**552.236-79 [Reserved] Samples.**

As prescribed in [536.570-10](#), insert the following clause:

SAMPLES (APR 1984)

(a) After the award of the contract, the Contractor shall furnish for the approval of the Contracting Officer samples required by the specifications or by the Contracting Officer. Samples shall be delivered to the Contracting Officer or to the Architect as specified or as directed. The Contractor shall prepay all shipping charges on samples. Materials or equipment for which samples are required shall not be used in the work until approved in writing by the Contracting Officer.

(b) Each sample shall have a label indicating:

- (1) Name of project building or facility, project title and contract number.
- (2) Name of Contractor and, if appropriate, name of subcontractor.
- (3) Identification of material or equipment with specification requirement.
- (4) Place of origin.
- (5) Name of producer and brand (if any).

Samples of finished materials shall have additional markings that will identify them under the finish schedules.

(c) The Contractor shall mail under separate cover a letter in triplicate submitting each shipment of samples and containing the information required in paragraph (b) of this clause. He shall enclose a copy of this letter with the shipment and send a copy to the Government representative on the project. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be construed to change or modify any contract requirement. Substitutions will not be permitted unless they are approved in writing by the Contracting Officer.

(d) Approved samples not destroyed in testing will be sent to the Government representative at the project. Approved samples of hardware in good condition will be marked for identification and may be used in the work. Materials and equipment, incorporated in the work shall match the approved samples. Other samples not destroyed in testing or not approved will be returned to the Contractor at his expense if so requested at time of submission.

(e) Failure of any material to pass the specified tests will be sufficient cause for refusal to consider, under this contract, any further samples of the same brand or make of that material or equipment which previously has proved unsatisfactory in service.

(f) Samples of various materials or equipment delivered on the site or in place may be taken by the Government representative for testing. Samples failing to meet contract requirements will automatically void previous approvals of the items tested. The Contractor shall replace such materials or equipment found not to have met contract requirements, or there shall be a proper adjustment of the contract price as determined by the Contracting Officer.

(g) Unless otherwise specified, when tests are required only one test of each sample proposed for use will be made at the expense of the Government. Samples which do not meet specification requirements will be rejected. Testing of additional samples will be made by the Government at the expense of the Contractor.

(End of clause)

**552.236-80 [Reserved] Heat.**

As prescribed in [536.570-11](#), insert the following clause:

HEAT (APR 1984)

Unless otherwise specified or unless already provided by the Government the Contractor shall:

(a) Provide heat, as necessary to protect all work, materials, and equipment against injury from dampness and cold;

(b) Protect, cover and/or heat as may be necessary, to produce and maintain a temperature of not less than 50 degrees Fahrenheit (1) in the concrete during the placing, setting and curing of concrete, and (2) in the plaster during the application, setting and curing of plaster; and

(c) Provide heat as necessary in the area where work is to be done to provide the minimum temperature recommended by the supplier or manufacturer of the material, but in no case less than 50 degrees Fahrenheit, for a period beginning 10 days before placing of interior finishes and finish materials and continuing until completion or beneficial occupancy of the area, whichever is earlier.

(End of clause)

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**552.236-83 Requirement for a Project Labor Agreement.**

As prescribed in [536.570-14](#), insert a clause substantially the same as the following:  
REQUIREMENT FOR A PROJECT LABOR AGREEMENT (SEP 1999)

(a) *Definition.* "Project Labor Agreement" (PLA) means an agreement between the contractor, subcontractors, and the union(s) representing workers. Under a PLA, the contractor and subcontractors on a project and the union(s) agree on terms and conditions of employment for the project, establishing a framework for labor-management cooperation to advance the Government's procurement interest in cost, efficiency, and quality.

(b) The Contractor shall, after contract award, enter into a PLA for performance of *[Insert project or contract name]*. The PLA binds the Contractor and subcontractors of whatever tier engaged in onsite construction work. The PLA shall include all the following terms:

(1) Guarantees against strikes, lockouts, and similar work disruptions.

(2) Effective, prompt and mutually binding procedures for resolving labor disputes arising during the project.

(3) Other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health.

(4) The PLA shall fully conform to all applicable statutes, regulations, and Executive Orders.

(c) Any PLA reached under this clause shall not change the terms of this contract or provide for any pricing adjustment by the Government.

(d) The Government shall not participate in the negotiations of any PLA.

(e) Nothing in this clause precludes contractors or subcontractors from competing for contracts or subcontracts on this project without discrimination based on union or non-union status.

(End of clause)

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