

## GSA ORDER

Subject: General Services Administration Acquisition Manual (GSAM); General Services Acquisition Regulation (GSAR) Case 2015-G513, Fair Opportunity Complaints

1. **Purpose.** This order transmits a revision to the GSAM at GSAR part 516, Types of Contracts and corresponding provisions and clauses in GSAR part 552, Solicitation Provisions and Contract Clauses, to clarify that the ordering-agency task and delivery order Ombudsman has jurisdiction and responsibility to review and resolve fair opportunity complaints on tasks and delivery orders placed against GSA multiple-award contracts.

2. **Background** The General Services Administration (GSA) is amending the GSAR and GSAM to clarify that the ordering-agency task and delivery order Ombudsman has the jurisdiction and responsibility to review and resolve fair opportunity complaints placed against GSA multiple-award contracts. The ordering agency must include contact information in its tasks or delivery order solicitations and awarded orders about where at the agency the contractor should file its complaint. Additionally, the contractor must provide a copy of its complaint to the GSA Procurement Ombudsman for information purposes.

The final rule was published in the *Federal Register* at 82 FR 2249 on January 9, 2017.

3. **Effective date.** January 9, 2017.

4. **Explanation of changes.**

A. **Regulatory changes:**

- 516.506(b) - Instructs the Contracting Officer to include GSAR clause 552.216-74, in solicitations and contracts for multiple-award contracts where GSA is the only ordering activity, or for GSA orders placed against a GSA multiple-award contract.
- 516.506(d) - Instructs the Contracting Officer to insert clause 552.216-76 in all GSA-awarded contracts for interagency use (i.e., Governmentwide Acquisition Contracts, Multi-Agency Contracts).
- 552.216-76 - Instructs the ordering agency to designate a Task and Delivery Order Ombudsman to review contractor complaints on fair opportunity issues placed against GSA issued multiple-award contracts.

**B. Non-regulatory changes.**

- GSAM 516.505(b) - Clarifies that the GSA Task-Order and Delivery-Order Ombudsman will review and resolve complaints from contractors concerning all task and delivery order actions made by GSA. However, complaints regarding task and delivery order actions done by other agencies on GSA contract vehicles shall be directed to the ordering agency's Task-Order and Delivery-Order Ombudsman.

**5. Cancellations and Rescissions: None.**



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# GSAR Case 2015-G513 Fair Opportunity Complaints on GSA Contracts Draft Final Rule

LEGEND: Additions: **[bold and bracketed]**; Deletions: ~~Strikethrough~~

Legal Comments: Add **[Bold, bracket and underlined]**; Deletions: ~~Strikethrough and underlined~~

Use of five asterisks (\*\*\*\*\* ) indicates that an entire paragraph and its sub paragraphs is unchanged. Three asterisks (\*\*\*) are used to show higher level paragraphs remain unchanged when text is changed in a sub paragraph.

## TAB A

### PART 516—Types of Contracts

#### Subpart 516.5—Indefinite-Delivery Contracts

516.505 Task-order and delivery-order ombudsman.

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(b) The GSA **[Task-Order and Delivery Order]** Ombudsman shall review and resolve complaints from contractors concerning all task and delivery order actions **[made by GSA. Complaints regarding task and delivery order actions of other agencies using GSA contract vehicles shall be directed to the ordering agency's Task-Order and Delivery-Order Ombudsman].**

(c) If any corrective action is needed after reviewing complaints from contractors, the GSA **[Task-Order and Delivery Order]** Ombudsman shall provide a written determination of such action to the contracting officer.

(d) Contracting officers shall be notified via the contractor of any complaints submitted to the GSA **[Task-Order and Delivery Order]** Ombudsman (see clause 552.216-74).

#### 516.506 Solicitation provisions and contract clauses.

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(b) In solicitations and contracts for **[multiple-award contracts where GSA is the only ordering activity, or for GSA orders placed against a GSA multiple-award contract,]** ~~GSA-awarded IDIQ contracts,~~ insert clause 552.216-74, **[GSA] Task-Order and Delivery-Order Ombudsman. [This clause shall not be included in GSA-awarded contracts available for multiple agency use (i.e., Governmentwide Acquisition Contracts, Multi-Agency Contracts); instead, see (d) below.]**

(c) If the clause at 552.216-72 is prescribed, insert the provision at 552.216-73, Ordering Information, in solicitations for Special Order Program items and in other FAS Program solicitations.

**[(d) Insert clause 552.216-XX, Ordering Agency Task-Order and Delivery-Order Ombudsman in all GSA-awarded contracts available for multiple agency use (i.e., Governmentwide Acquisition Contracts, Multi-Agency Contracts).]**

~~(d)~~ **[e]** The Contracting Officer may insert clause [552.216-75](#) in solicitations and GSA-awarded IDIQ contracts, not including Federal Supply Schedule (FSS) contracts. This clause should be included in all GSA-awarded Governmentwide acquisition contracts and multi-agency contracts. See [538.273](#) for clauses applicable to FSS contracts.

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**PART 552—Solicitation Provisions and Contract Clauses**

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

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**552.216-74 [GSA] Task-Order and Delivery-Order Ombudsman.**

As prescribed in [516.505\(d\)](#), insert the following provision:

[GSA] Task-Order and Delivery-Order Ombudsman [DATE]

\* \* \* \* \*

(c) The GSA [Task-Order and Delivery-Order] Ombudsman is located at the General Services Administration (GSA), Office of Government-wide Policy (OGP), Office of Acquisition Policy (MV). Contact information for the GSA [Task-Order and Delivery-Order] Ombudsman can be found at: <http://www.gsa.gov/ombudsman>.

**End of Clause**

**[552.216-XX Ordering Agency Task-Order and Delivery-Order Ombudsman.**

As prescribed in [516.506\(d\)](#), insert the following provision:

Ordering Agency Task-Order and Delivery-Order Ombudsman [DATE]

(a) *Ordering Agency Task-Order and Delivery-Order Ombudsman.* The Ordering Agency shall designate a Task-Order and Delivery-Order Ombudsman to review complaints from contractors and ensure that they are afforded a fair opportunity for consideration in the award of task or delivery orders placed against GSA Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts, consistent with the procedures in the contract. The contact information for the Ordering Agency Task-Order and Delivery-Order Ombudsman shall be made available to contractors.

(b) *Submission of Complaints.* When a contractor submits a complaint to the Ordering Agency's designated Task-Order and Delivery-Order Ombudsman, the contractor shall also send a copy of the complaint to the GSA Procurement Ombudsman, for informational purposes. The GSA Procurement Ombudsman is located at the General Services Administration, Office of Governmentwide Policy (OGP), Office of Acquisition Policy (MV). Contact information for the GSA Procurement Ombudsman can be found at: <http://www.gsa.gov/ombudsman>.]

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**(c) If the contractor is not satisfied with the resolution of its complaint by the Ordering Agency Task-Order and Delivery-Order Ombudsman, the contractor may follow the procedures outlined in FAR subpart 33.1, as applicable (e.g. FAR 16.505 (a)(10).]**

**End of Clause**

**ATTENTION: THIS IS A CONFIDENTIAL, DELIBERATIVE, AND PRE-DECISIONAL GENERAL SERVICES ADMINISTRATION ACQUISITION MANAGEMENT SYSTEM DOCUMENT, PROTECTED FROM UNAUTHORIZED DISCLOSURE PURSUANT TO THE FREEDOM OF INFORMATION ACT AND OTHER LEGAL AUTHORITIES. THIS DOCUMENT SHALL NOT BE DISTRIBUTED OUTSIDE AUTHORIZED RULEMAKING CHANNELS WITHOUT THE PRIOR APPROVAL OF THE GSA SENIOR PROCUREMENT EXECUTIVE. IF YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, YOU MAY NOT READ, COPY, DISTRIBUTE, OR USE THE DOCUMENT OR INFORMATION CONTAINED THEREIN. FURTHERMORE, YOU MUST IMMEDIATELY NOTIFY THE SENDER BY REPLY EMAIL OR OTHER MEANS AND THEN DELETE OR DESTROY ALL COPIES OF THE DOCUMENT. ANY DISTRIBUTION OF THIS DOCUMENT MUST CONTAIN THIS LEGEND.**