

### **GSA FX Mod 47 Recovery Purchasing**

Recovery Purchasing by state and local governments through Federal Supply Schedules under Section 833 of the Defense Authorization Act. This site will allow for the electronic modification of your GSA Schedule contract at the end of this presentation.

- This modification is applicable to all Schedule contracts.
- You may choose to exit this site and return at a later date.
- Participation in Recovery Purchasing is optional.
- This modification will remain available at the Vendor Support Center website for at least 1 year.

This modification allows Schedule Contractors the option to accept orders for Recovery Purchasing from state and local government entities under the GSA Multiple Award Schedule contracts pursuant to Section 833 of the National Defense Authorization Act for Fiscal Year 2007.

#### **Acceptance of this modification is optional to all Schedule contractors.**

This modification is voluntary, meaning that GSA Schedule contractors have the option of deciding whether they will accept orders under Section 833 (Recovery Purchasing), placed by state and local government buyers.

- The Defense Authorization ACT of 2007 (Public Law 109-364) included Section 833 which permits GSA to open schedules up to state and local government use in response to a Presidential Declaration of a major disaster (under the Stafford Act) and to facilitate recovery from terrorism or nuclear, biological, chemical or radiological attack.
- Unlike the existing cooperative purchasing authority on the IT Schedule, this authority is limited. It can only be used by state and local governments to aid in recovering from a disaster as defined above. This does include advance purchasing and pre-positioning in preparation for a disaster.
- State and local government entities means: the states of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges and other institutions of higher education, council of governments (Incorporated or not), regional or interstate government entities, or any other agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative and judicial departments.

Below are the significant implications of agreeing to make products and services available through Recovery Purchasing.

**These points are not all-inclusive. You must refer to the terms and conditions within the modification for complete details.**

- This contract modification applies to all Special Item Numbers (SINs) awarded under contract. Schedule contractors retain the right to decline individual orders from state or local government buyers.
- Recovery Purchasing is voluntary for state and local government entities; they will need to make their own legal determinations as to whether use of the schedules is consistent with their laws, regulations and other policies.
- Eligible ordering activities may add terms and conditions required by statutes, ordinance, regulations or orders to the extent that they do not conflict with the Schedule contract terms and conditions
- State and local entities will be allowed to establish their own Blanket Purchase Agreements
- With respect to payment, the terms and conditions of a state's prompt payment laws apply to orders placed by non-Federal ordering activities. If the ordering activity is not otherwise subject to a state prompt payment law, the activity will be covered by the Federal Prompt Payment Act in the same manner as Federal ordering activities
- Orders placed under Recovery Purchasing by eligible ordering activities create new contracts to which Federal Government is not a party
- The Federal Government will not be liable for the performance or nonperformance of orders between schedule contractors and eligible non-Federal entities
- Under Recovery Purchasing, disputes that cannot be resolved between schedule contractors and eligible non-Federal entities may be litigated in any state or Federal court with jurisdiction over the parties, using principles of Federal procurement law and the Uniform Commercial Code
- Contractors will be required to report sales under Recovery Purchasing separately from sales to all other authorized Schedule users. The interim rule includes notification that additional detailed transactional level data reporting will be required.
- Schedule sales to state and local government entities are subject to the Industrial Funding Fee (IFF)

- **The following GSAR clauses are *new and added* to the contract:**

- GSAR 552.238-76, Definition - Federal Supply Schedule - Recovery Purchasing (FEB 2007)
- GSAR 552.238-80, Use of Federal Supply Schedule Contracts by Certain Entities-Recovery Purchasing (FEB 2007)

- **The following GSAR clauses are *updated* to the contract and modified to reflect nuances of the Recovery Purchasing program:**

- GSAR 552.211-75, Preservation, Packaging and Packing (FEB 1996) (Alternate I MAY 2003)
- GSAR 552.211-77, Packing List (FEB 1996) (Alternate I - MAY 2003)
- GSAR 552.216-72, Placement of Orders,(SEP 1999) (Alternate IV - FEB 2007)
- GSAR 552.216-73, Ordering Information (SEP 1999) (Alternate II - SEP 1999)
- GSAR 552.232-8, Discounts for Prompt Payments, (APR 1989) (Deviation FAR 52.232-8) (Alternate I - MAY 2003)
- GSAR 552.232-81, Payments by Non-Federal Ordering Activities (MAY 2003)
- GSAR 552.232-79, Payment by Credit Card (MAY 2003)
- GSAR 552.238-71, Submission and Distribution of Authorized Federal Supply Schedule Pricelists, (SEP 1999) (Deviation DEC 2004)
- GSAR 552.238-75, Price Reductions (MAY 2004) (Alternate I - MAY 2003)
- GSAR 552.238-78, Scope of Contract - Eligible Ordering Activities (MAY 2004) (Alternate I - FEB 2007)
- GSAR 552.246-73, Warranty - Multiple Award Schedules (MAR 2000) (Alternate I - May 2003)

- **The following FAR clauses are *updated* to the contract and modified to reflect nuances of the Recovery Purchasing program:**

- FAR 52.212-4, Contract Terms and Conditions-Commercial Items (FEB 2007) (Deviation - FEB 2007)
- FAR 52.216-18, Ordering (OCT 1995) (Deviation - FEB 2007)
- FAR 52.216-19, Order Limitations (OCT 1995) (Variation I-AUG 1999) (Deviation - FEB 2007)
- FAR 52.229-1, State and Local Taxes (APR 1984) (Deviation - FEB 2007)
- FAR 52.229-3, Federal, State, and Local Taxes (APR 2003) (DEVIATION - FEB 2007)
- FAR 52.232-7, Payments Under Time-and-Materials and Labor-Hour Contracts (AUG 2005) (ALTERNATE I - FEB 2007) ( Deviation - FEB 2007)
- FAR 52.232-17, Interest (JUN 1996) (Deviation - MAY 2003)
- FAR 52.232-19, Availability of Funds for the Next Fiscal Year (APR 1984) (Deviation - MAY 2003)
- FAR 52.232-34, Payment by Electronic Funds Transfer-Other than Central Contractor Registration (MAY 1999) (Deviation - FEB 2007)
- FAR 52.232-36, Payment By Third Party (MAY 1999) (Deviation -MAY 2003 )
- FAR 52.237-3, Continuity of Services (JAN 1991) (Deviation - MAY 2003)
- FAR 52.246-4, Inspection of Services - Fixed Price (AUG 1996) (Deviation - MAY 2003)
- FAR 52.246-6 Inspection - Time-and-Material and Labor-Hour (MAY 2001) (ALTERNATE I --APR 1984) (DEVIATION - MAY 2003)
- FAR 52.247-34 F.O.B. Destination (NOV 1991) (Deviation - MAY 2003)
- FAR 52.247-38 F.O.B. Inland Carrier, Point of Exportation (FEB 2006) (Deviation FEB 2007)

## **Recovery Purchasing Frequently Asked Questions**

### **1. What is Recovery Purchasing (Section 833)?**

Section 833 of the National Defense Authorization Act for Fiscal Year 2007, authorizes the Administrator of the General Services Administration to provide for the use by state or local governments of Federal Supply Schedules for goods or services that are to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

### **2. What is a "major disaster"?**

A "major disaster" is defined by the Act to mean a natural catastrophe in any part of the United States, including its territories, which in the determination of the President causes sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of state and local governments. For more information on the Robert T. Stafford Disaster Relief and Emergency Assistance Act, go to [www.fema.gov/about/stafact.shtm](http://www.fema.gov/about/stafact.shtm).

### **3. When will the Modification become effective?**

Each contractor's modification will take effect the same day the contractor accepts it via the automated process on the Vendor Support Center web site.

### **4. How will Contractors modify their contracts?**

The Contract Administrator (on file in FSS-19) will receive an email notifying them of the availability of an automated modification process through the Vendor Support Center (VSC) web site.

The email will also contain a Personal Identification Number (PIN) associated with the contract number and specific modification for security and verification.

The "Pending Modification" section on the VSC homepage is created so anyone viewing the VSC web site can review and choose from a list of Modifications available. Detailed information will educate the reader on the background, purpose and implications of the Modification. At the conclusion, the contractor will enter the PIN and other verification information as a means of accepting the modification. Upon execution, a confirmation email with a printable SF 30 attached will be sent to the contractor, ACO and PCO.

**5. What happens if the Contractor never received a PIN or misplaced it?**

The contractor should contact their assigned ACO; the ACO will be able to generate a new PIN.

**6. What assurance does a PCO have about the authority on the part of the Contractor to agree to the modification?**

- The email and PIN will be sent only to the Contract Administrator on file (FSSS-19).
- Prior to accepting the modification, the Contractor representative must provide detailed information (name, title/position, email, telephone number, Contract Number, PIN) plus verify that they have the authority, by virtue of designation as an Authorized Negotiator or Contact for Contract Administration, to accept the modification.
- A database has been created to store this information, as well as capture the IP address of the individual who accepted the modification online.