

## General Services Administration

538.273

price, or the customer (e.g., dealer, distributor, original equipment manufacturer, other reseller) who receives the best price may perform certain value-added functions for the offeror that the Government does not perform. In such cases, some reduction in the discount given to the Government may be appropriate. If the best price is not offered to the Government, you should ask the offeror to identify and explain the reason for any differences. Do not require offerors to provide detailed cost breakdowns.

(d) You may award a contract containing pricing which is less favorable than the best price the offeror extends to any commercial customer for similar purchases if you make a determination that both of the following conditions exist:

(1) The prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated.

(2) Award is otherwise in the best interest of the Government.

### 538.271 MAS contract awards.

(a) MAS awards will be for commercial items as defined in FAR 2.101. Negotiate contracts as a discount from established catalog prices.

(b) Before awarding any MAS contract, determine that the offered prices are fair and reasonable (see FAR subpart 15.4 and 538.270). Document the negotiation and your determination using FAR 15.406-3 as guidance.

(c) State clearly in the award document the price/discount relationship between the Government and the identified commercial customer (or category of customers) on which the award is predicated.

### 538.272 MAS price reductions.

(a) Section 552.238-75, Price Reductions, requires the contractor to maintain during the contract period the negotiated price/discount relationship (and/or term and condition relationship) between the eligible ordering activities and the offeror's customer or category of customers on which the contract award was predicated (see 538.271(c)). If a change occurs in the contractor's commercial pricing or discount arrangement applicable to the

identified commercial customer (or category of customers) that results in a less advantageous relationship between the eligible ordering activities and this customer or category of customers, the change constitutes a "price reduction."

(b) Make sure that the contractor understands the requirements of section 552.238-75 and agrees to report to you all price reductions as provided for in the clause.

[64 FR 37227, July 9, 1999, as amended at 68 FR 24378, May 7, 2003]

### 538.273 Contract clauses.

(a) *Multiple award schedules.* Insert in solicitations and contracts:

(1) 552.238-70, Identification of Electronic Office Equipment Providing Accessibility for the Handicapped, if you include electronic office equipment items.

(2) 552.237-71, Submission and Distribution of Authorized FSS Schedule Pricelists. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule contracts containing information technology Special Item Numbers, use Alternate I. If GSA is not prepared to accept electronic submissions for a particular schedule, delete:

(i) Subparagraphs (c)(1)(ii) and (c)(3).

(ii) The subparagraph identifier "(i)" in (c)(1) and the word "and" at the end of subparagraph (i).

(3) 552.238-72, Identification of Products That Have Environmental Attributes.

(4) 552.238-73, Cancellation.

(b) *Multiple and single award schedules.* Insert in solicitations and contracts:

(1) 552.238-74, Industrial Funding Fee and Sales Reportings.

(2) 552.238-75, Price Reductions. In solicitations and contracts for FSS Schedule 70 and the Consolidated Products and Services Schedule contracts containing information technology Special Item Numbers, use Alternate I.

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