

General Services Administration

552.243-72

costs for the Contractor or subcontractor performing the work.

(3) The Contractor shall submit with the proposal his request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the contract in its entirety.

(4) In considering a proposal, the Government shall make check estimates in detail, utilizing unit prices where specified or agreed upon, with a view to arriving at an equitable adjustment.

(5) After receipt of a proposal the Contracting Officer shall act thereon, within 30 days; provided however, that when the necessity to proceed with a change does not allow time properly to check a proposal or in the event of failure to reach an agreement on a proposal, the Government may order the Contractor to proceed on the basis of price to be determined at the earliest practicable date. Such price shall not be more than the increase or less than the decrease proposed.

(6) If a mutually acceptable agreement cannot be reached, the Contracting Officer may determine the price unilaterally.

(b) The provisions of the "Differing Site Conditions" clause prescribed by FAR 52.236-2 are supplemented as follows: The Contractor shall submit all claims for equitable adjustment in accordance with, and subject to the requirements and limitations set out in paragraph (a) of this "Equitable Adjustments" clause.

(End of clause)

552.243-72 Modifications (Multiple Award Schedule).

As prescribed in 543.205(b), insert the following clause:

MODIFICATIONS (MULTIPLE AWARD SCHEDULE)
(JUL 2000)

(a) *General.* The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of Modifications.*

(1) *Additional items/additional SINs.* When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii) Discount information for the new item(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. This information is the same as the

initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) as described in 552.212-70, Preparation of Offer (Multiple Award Schedule) is required.

(iv) Delivery time(s) for the new item(s) or the items under the new SIN(s) must be submitted in accordance with 552.211-78, Commercial Delivery Schedule (Multiple Award Schedule).

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215-6, Place of Performance.

(vi) Hazardous material information (if applicable) must be submitted as required by 52.223-3 (ALT I), Hazardous Material Identification and Material Safety Data.

(vii) Any information requested by 52.212-3(f), Offeror Representations and Certifications—Commercial Items, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act—Balance of Payments Programs—Supplies.

(2) *Deletions.* The Contractor shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) *Price Reduction.* The Contractor shall indicate whether the price reduction falls under item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-75. If the price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective Dates.* The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-75.

(d) *Electronic File Updates.* The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the contracting officer as set forth in the Price Reductions clause at 552.238-75.

(e) *Amendments to Paper Supply Schedule Price Lists.*

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February–April, and every 3 month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the contracting officer, and one copy to the FSS Schedule Information Center.

(End of clause)

Alternate I (Sep 1999). As prescribed in 543.205(b), substitute the following paragraph (d) for paragraph (d) of the basic clause:

(d) *Electronic File Updates.* The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINS, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions and corrections without prior approval. However, the Contractor shall notify the contracting officer as set forth in the Price Reductions clause at 552.238-75.

[64 FR 37229, July 9, 1999, as amended at 65 FR 41379, July 5, 2000]

552.246-17 Warranty of Supplies of a Noncomplex Nature

As prescribed in 546.710(a), insert the following clause:

WARRANTY OF SUPPLIES OF A NONCOMPLEX NATURE (DEC 1990) (DEVIATION FAR 52.246-17)

(a) *Definitions.* "Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

"Supplies," as used in this clause, means the end item furnished by the Contractor and related services required under the contract. The word does not include "data."

(b) *Contractor's obligations.*

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for _____* _____

(i) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the requirements of this contract; and

(ii) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such applies will conform with the requirements of this contract.

(2) When return, correction, or replacement is required, the Contractor shall be responsible for all costs attendant to the return, correction or replacement of the nonconforming supplies. Any removal in connection with the above shall be done by the Contractor at its expense. However, the Contractor's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in the contract and the Contractor's plant, and return.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(4) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) *Remedies available to the Government.*

(1) The Contracting Officer shall give written notice to the Contractor of any breach of warranties in paragraph (b)(1) of this clause with _____* _____. This notice shall contain information concerning the deficiencies found, the location of the nonconforming supplies, and the quantity involved.

(2) Within a reasonable time after the notice, the Contracting Officer may either—

(i) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph (b)(1) of this clause; or

(ii) Retain such supplies and reduce the contract price by an amount equitable under