

January 12, 2010

FAS INSTRUCTIONAL LETTER 2010-04

MEMORANDUM FOR ALL FAS ACQUISITION ACTIVITIES

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SUBJECT: Unilateral Federal Supply Schedule (FSS) Contract Modifications

1. Purpose. The purpose of this Instructional Letter (IL) is to provide guidance regarding the submission, evaluation, and execution of certain unilateral Federal Supply Schedule contract modifications.
2. Background. Federal Supply Schedule contracts have a base contract period of five years and three five year options, with the exception of some Schedules managed through the Department of Veterans Affairs National Acquisition Center. Contractors are required to maintain current information on their contract throughout the length of the contract. The currency of the contract is facilitated through contract modifications. Clarifications, negotiations and a Contracting Officer's business acumen may be required to process many of these modifications. However, certain contract modifications can be processed simply through a notification by the contractor and unilateral execution by the Federal Supply Schedule Contracting Officer.

Specifically, Federal Acquisition Regulation (FAR) Subpart 43.103(b), Types of contract modifications *Unilateral*, states: "A unilateral modification" is a contract modification that is signed only by the contracting officer. Unilateral modifications are used, for example, to –

- (1) Make administrative changes;
- (2) Issue change orders;
- (3) Make changes authorized by clauses other than a changes clause (e.g., Property clause, Options clause or Suspension of Work clause) and;
- (4) Issue termination notices.

By processing certain unilateral modifications through a simple notification process, this should allow Federal Supply Schedule Contracting Officers to process these modifications more rapidly and concentrate on those modifications that require negotiations and a Contracting Officer's business acumen.

3. Effective Date. Date of signature.

4. Termination Date. This IL expires one year from the date unless cancelled, extended, or incorporated into a handbook.
5. Applicability. This IL applies to all GSA/FAS and Department of Veteran Affairs (VA) acquisition activities awarding and administering Federal Supply Schedule contracts.
6. References to Regulations. This IL references the following regulations:
 - FAR Subpart 43.103(b) Types of contract modifications *Unilateral*
 - FAR Subpart 52.217-9 Option to Extend the Term of the Contract (Mar 2000)
 - GSAR 552.238-73 Cancellation (Sep 1999)

7. Instructions and Procedures.

A. Unilateral Modifications

The following contract modifications shall be processed by the Federal Supply Schedule contract-level Contracting Officer as a unilateral modification, at the contractor's written request (via paper or eMod process) without requirement for contractor signature on the Standard Form 30 (SF 30):

- i. Administrative modifications to include the following:
 - Change of contract administrator;
 - Change of phone number;
 - Change of fax number;
 - Change of Web URL (website);
 - Change of email address;
 - Change of authorized negotiator; and
 - Change of (addition/deletion) of authorized reseller.
- ii. Deletion modifications to include the following:
 - Deletion of labor category;
 - Deletion of product; and
 - Deletion of Special Item Number (SIN).

The contractor notification for the deletions shall include an explanation for the requested action(s).

- iii. Option/Extension modification types under FAR 52.217-9 (with notification from the contractor) to include the following when no changes are negotiated to the contract's terms and conditions:
 - Exercise an Option; and
 - Temporary Extension at the Multiple Award Schedule (MAS) Contract Level.
- iv. Cancellation/terminations modification types under GSAR 552.238-73: "Either

party may cancel this contract in whole or in part by providing written notice". The cancellation/termination may be exercised by either the contracting officer or the contractor with 30 calendar days written notification to the other party.

When submitting a modification request via paper means, the contractor's letter on corporate letterhead shall serve as its notification and intent to be bound to contractual action. If the contractor is using eMod to submit its modification request, the digital signature and letter on corporate letterhead shall serve as its notification and intent to be bound to contractual action.

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