

May 20, 2011

## FAS INSTRUCTIONAL LETTER 2011-11

MEMORANDUM FOR ALL FAS AND VA ACQUISITION ACTIVITIES

FROM: HOUSTON W. TAYLOR   
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SUBJECT: Temporary Extensions of Federal Supply Schedule (FSS)

1. Purpose. The purpose of this Instructional Letter (IL) is to provide guidance on the correct authority to use when executing temporary extensions on Federal Supply Schedule contracts. For guidance on when temporary extensions are authorized, Contracting Officers shall refer to their individual portfolio's policy (e.g. Operational Notice).
2. Background. Federal Supply Schedule contracts have a base contract period of five years and three five-year option periods, with the exception of some Schedules managed through the Department of Veterans Affairs (VA) National Acquisition Center which have a base contract period of 5 years and 5 one-year option periods. In some instances, the base period or an option period will have to be temporarily extended beyond the five year period (or 1 year option period for some VA Schedules) before exercise of the next option period can occur.

A 2011 management audit by the Office of Inspector General ([Report #A100204/Q/A/P11005](#)) found that there was uncertainty among Contracting Officers regarding the correct procedures to use in awarding temporary extensions. There was inconsistency across acquisition centers on which clauses were cited as the basis for the temporary extensions and in whether the extensions were processed through unilateral or bilateral modification. A 2010 management audit ([Report #A090203/Q/A/P10007](#)) also revealed improperly executed temporary extensions of Schedule contracts. Improperly executed temporary extensions could result in invalid extensions, lapses in the performance period of FSS contracts, and monetary loss.

3. Effective Date. Date of signature.

4. Termination Date. This IL expires one year from the effective 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 administering Federal Supply Schedule contracts.

6. Reference to Regulations. This IL references the following regulations:

- FAR Subpart 52.217-8 Option to Extend Services (Nov 1999)
- FAR Subpart 52.212-4 Contract Terms and Conditions – Commercial Items, Changes (Jun 2010)

7. Instructions and Procedures.

- A. Contracts with FAR clause 52.217-8 Option to Extend Services (Nov 1999)

Contracting Officers administering contracts containing FAR clause 52.217-8 should cite this clause as the authority when exercising temporary extensions. This clause applies to both the Schedule contract that contains the clause and orders under that particular Schedule contract. These contracts can be unilaterally extended as long as the modification cites the clause listed above.

Contracting Officers shall refer to their individual portfolio's guidance on how often to exercise temporary extensions using FAR clause 52.217-8 for any one contract. However, the total extension of performance under the contract shall not exceed 6 months when citing this clause.

- B. Contracts without FAR clause 52.217-8 Option to Extend Services (Nov 1999)

Contracting Officers administering contracts that do not contain FAR clause 52.217-8 shall cite FAR clause 52.212-4 Contract Terms and Conditions – Commercial Items, Changes (Jun 2010). These contracts shall be bilaterally extended.

- C. Contracting Officers shall refer to their individual portfolio's guidance on how to handle pricing and modifications to contracts on temporary extensions.

8. Questions and Answers.

Q1. Do temporary extensions add to the total period of performance for a FSS contract?

A1. No, temporary extensions do not add to the contract's total period of performance. The temporary extension is subtracted from the period of performance of the next 5 year option period (or 1 year option period for some VA Schedules). For example, if the base period of a FSS contract is temporarily extended for 6 months, then the next option period will be 4 years and 6 months.

Q2. Why can't we use the Evergreen clause (GSAM clause I-FSS-163) – or for VA, clause AS1508, Option to Extend the Term of the Contract – as the authority for temporary extensions?

A2. Both clauses I-FSS-163 and AS1508 are the authorities whereby Contracting Officers exercise an option period of the contract. In order to exercise the option pursuant to clause I-FSS-163, the following conditions are applicable:

(1) It is determined that exercising the option is advantageous to the Government considering price and the other factors covered in (2 through 4 below).

(2) The Contractor's electronic catalog/pricelist has been received, approved, posted, and kept current on GSA Advantage!™ in accordance with clause I-FSS-600, Contract Price Lists.

(3) Performance has been acceptable under the contract.

(4) Subcontracting goals have been reviewed and approved

A temporary extension is NOT an option. Temporary extensions are used in the event when the next option cannot be exercised, due to the above four conditions not being met prior to the expiration of the base period or option period.

In addition, clause I-FSS-163 limits use of this clause to three times. If this clause is used for a basis of temporary extensions, it is no longer available to be used to exercise the three 5-year option periods.

Similarly, in VA Schedule contracts, clause AS1508 is used to exercise the option period of the contract, NOT to temporarily extend the current contract period.

Q3. Currently, Contractor Assist Visits (CAVs) are scheduled based on contract start dates for the mid-term visit and contract end (i.e. base period or option period) dates for the "expiring" visit. Will temporary extensions affect the window for scheduling Contractor Assist Visits (CAVs)?

A3. CAVs can continue being scheduled based on the original contract end date and not the modified contract end date (i.e. contract end date based on a temporary extension).

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