

552.238-199 SPECIAL ORDERING PROCEDURES APPLICABLE WHEN PROCURING CLOUD COMPUTING ON A CONSUMPTION BASIS (MAR 2022)

(a) Definitions.

(1) “Capital asset” has the meaning given the term by Office of Management and Budget (OMB) Circular A-11 Capital Programming Guide and any amendatory or superseding document(s) thereto.

(2) “Cloud computing” has the meaning given the term by the National Institute of Standards and Technology in Special Publication (SP) 800–145 and any amendatory or superseding document(s) thereto.

(3) “Consumption basis” or “consumption-based” means any offering that is metered with charges that accrue on a predetermined periodic basis (e.g., per second, minute, hour, week, month, or another per-unit basis) and is billed based on actual usage during an elapsed period with predetermined pricing or discounts.

(4) “Requirements task order” means a task order that provides for filling all actual purchase requirements of a designated Ordering Activity during a specified contract period, with performance by the Contractor being scheduled when the Ordering Activity awards, or exercises options for, individual contract line items (CLINs) under the task order.

(i) This task order type is appropriate when the Ordering Activity anticipates recurring requirements but cannot predetermine the precise quantities of services that it will need during a definite period.

(ii) A requirements task order issued under a FSS contract is a single contract award as defined FAR 2.101. Individual CLINs executed and funded under this task order type are not considered to be second-tier instruments issued under the awarded task order.

(iii) A requirements task order is not a requirements contract as described at FAR 16.503.

(b) Ordering procedures.

(1) FAR 8.403(b) provides that GSA may establish special ordering procedures for a particular FSS offering.

(2) The procedures in FAR subpart 8.4 apply to this contract, with the exceptions listed in this clause. If a requirement in this clause is inconsistent with FAR subpart 8.4, this clause takes precedence pursuant to FAR 8.403(b).

(c) Applicability.

(1) The Ordering Activity Contracting Officer shall follow the procedures contained within this clause when placing an incrementally funded task order under this contract for cloud computing services on a consumption basis.

(2) The Ordering Activity Contracting Officer is permitted, but not required to use the procedures contained within this clause for task orders that are not incrementally funded.

(3) The Ordering Activity Contracting Officer shall not use the procedures contained within this clause for the acquisition, maintenance, or modification of capital assets.

(d) Pricing.

(1) The Ordering Activity Contracting Officer shall establish a task order ceiling price for all estimated requirements.

(2) All cloud computing services offered under this FSS contract are considered fixed-price.

(e) Task order type.

The Ordering Activity Contracting Officer shall use a requirements task order for cloud computing services procured on a consumption basis in accordance with this clause.

(1) This task order type may include other contract types, such as firm-fixed-price, when procuring other offerings under this contract that are not being procured on a consumption-basis.

(2) Estimates for cloud computing services to be procured on a consumption basis.

(i) The Ordering Activity Contracting Officer must state a realistic estimate of—

(A) The consumption of cloud computing services in the task order solicitation;
and

(B) The total amount in dollars to be expended on cloud consumption in the task order.

(ii) This estimate is not a representation to an Offeror or Contractor that the estimated consumption will be required or ordered, or that conditions affecting requirements will be stable or normal.

(iii) The Ordering Activity Contracting Officer may obtain the estimate from records of previous requirements and consumption, or by other means, and should base the estimate on the most current information available.

(iv) If the Government’s requirements do not meet this estimate, that fact shall not constitute the basis for an equitable price adjustment.

(3) All CLINs within the task order must include a defined scope with all services priced at the time of award.

(f) Incremental funding.

(1) The Ordering Activity may allot funds incrementally as the bona fide need arises for predefined and established fixed-priced procurement requirements on individual CLINs.

(2) The Ordering Activity shall ensure sufficient funds are allotted to the task order—

(i) At the time of award to cover the total amount payable to the Contractor for the awarded CLIN(s); and

(ii) At the time an optional CLIN is exercised to cover the total amount payable to the Contractor for that optional CLIN.

(3) Nothing in this clause shall be construed to supersede the Ordering Activity's contract funding policies.

(g) Consumption monitoring.

(1) The Contractor shall—

(i) Provide, at no additional cost to the Government, access to tools that enable the Government to track its usage of cloud computing services offered on a consumption basis; or

(ii) Notify the Ordering Activity Contracting Officer when total consumption reaches—
(A) 50 percent and 75 percent of the ceiling price for each CLIN for consumption-based cloud computing services, or other milestones as agreed upon by the Contractor and the Ordering Activity Contracting Officer; and
(B) 50 percent and 75 percent of the task order ceiling price, or other milestones as agreed upon by the Contractor and the Ordering Activity Contracting Officer.

(2) The Ordering Activity Contracting Officer shall determine that the consumption monitoring capabilities offered by the Contractor will enable the Government to adequately track its incurred costs before awarding a task order in accordance with this clause.

(h) Limitation of funds.

(1) The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the task order, and the Contractor shall not be obligated to continue performance if doing so would exceed the ceiling price set forth in the task order.

(2) The Ordering Activity Contracting Officer may use a Limitation of Funds clause when CLINs under the task order are incrementally funded.

(i) Scope reviews.

(1) The Ordering Activity Contracting Officer is encouraged to request a scope review from the GSA Federal Acquisition Service (FAS) Office of Information Technology Category (ITC) before placing a task order in accordance with these special ordering procedures.

(2) The purpose of a scope review is to analyze whether the planned acquisition is—

(i) compatible with the scope of Special Item Number (SIN) 518210C (previously 132-40) or successor SINs;

(ii) utilizing recommended best practices; and

(iii) not for the acquisition, maintenance, or modification of capital assets.

(3) The Ordering Activity Contracting Officer may request a scope review by contacting FAS ITC at

cloud-sin-rfi@gsa.gov.

(End of Clause)