

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

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SUBPART 39.2—ELECTRONIC AND INFORMATION TECHNOLOGY

39.201 Scope of subpart.

(S-90) *Section 508 Compliance.* The DoD Section 508 policies are located at <http://dodcio.defense.gov/DoDSection508.aspx>.

(S-91) Unless there is an associated service being offered with a software subscription or software maintenance agreement, and that associated service is billed separately, the acquisition of software subscriptions or software maintenance agreements will be acquired as a product. Further, ITVAR excepted acquisitions with the NAICS code 541519 will be acquired as a product.

SUBPART 239.74—TELECOMMUNICATIONS SERVICES

239.7401 Definitions.

(S-90) DITCO has made the determination that leasing/provisioning of telecommunications circuits (commoditized bandwidth) is covered under paragraph (1) of the FAR definition of commercial item in that it is a utility customarily used by the general public or by non- governmental entities for purposes other than governmental purposes, and has been sold, leased, or licensed to the general public; or, has been offered for sale, lease, or license to the general public. Thus, the FAR definition of a commercially available off-the-shelf (COTS) item would also cover leasing telecommunications circuits (commoditized bandwidth).

(S-91) Unless there is an associated service being offered with the telecommunications and that associated service is billed separately, the leasing of the telecommunications circuit (commoditized bandwidth) is not a "service contract." Per FAR 22.001, a "service contract means any Government contract, or subcontract thereunder, the principal purpose of which is to furnish services in the United

States through the use of service employees."

239.7407 Type of contract.

(S-90) When acquiring telecommunications services using the Inquiry/Quote/Order (IQO) process or communication service authorizations (CSAs), refer to the IQO Acquisition Deskbook located at <https://www.ditco.disa.mil/hq/deskbooks.asp>.

(S-91) A CSA change order or discontinue modification may be issued unilaterally if an equitable adjustment in contract/order price or delivery terms has been agreed upon and documented in advance (i.e. completion notice/report, bilateral modification to IDIQ contract). If an equitable adjustment in contract/order price or delivery terms has been agreed upon and documented in advance, only the unilateral CSA change order or discontinue modification is required. The contractor shall acknowledge the change order or discontinue modification as required by the contract.

