

Dated: December 22, 2010.

**Shay D. Assad,**

*Director, Defense Procurement and Acquisition Policy.*

Dated: December 22, 2010.

**Joseph A. Neurauter,**

*Deputy Associate Administrator and Senior Procurement Executive, Office of General Services Acquisition Policy, Integrity, and Workforce, U.S. General Services Administration.*

Dated: December 21, 2010.

**Sheryl J. Goddard,**

*Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 4, 12, 19, 22, 52, and 53

[FAC 2005-48; FAR Case 2011-005; Item I; Docket 2010-0112, Sequence 1]

RIN 9000-AL87

#### Federal Acquisition Regulation; Repeal of the Small Business Competitiveness Demonstration Program

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to remove FAR coverage of the Small Business Competitiveness Demonstration Program, to meet the requirements of section 1335 of the Small Business Jobs Act of 2010.

**DATES:** *Effective Date:* January 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-48, FAR Case 2011-005.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

This final rule amends the FAR to delete subpart 19.10 to meet the requirements of section 1335 of the Small Business Jobs Act of 2010 (Pub.

L. 111-240), referred to as the Act. Section 1335 of the Act amended the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) by striking Title VII (15 U.S.C. 644 note), the Small Business Competitiveness Demonstration Program. In accordance with the Act, the repeal of the Small Business Competitiveness Demonstration Program became immediately effective upon the enactment of the Act and it will apply to the first full fiscal year after the September 27, 2010, date of enactment. This change will remove the policy, procedures, provisions, clauses, and the information collection and recordkeeping requirements associated with the Small Business Competitiveness Demonstration Program, and will update forms deleting any references to the program.

##### II. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-3(a) and 41 U.S.C. 418b, and publication for public comments is not required.

##### IV. Paperwork Reduction Act

The final rule removes the information collection requirements associated with the Small Business Competitiveness Demonstration Program under OMB Clearance 9000-0100, and does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35.

#### List of Subjects in 48 CFR Parts 1, 4, 12, 19, 22, 52, and 53

Government procurement.

Dated: December 22, 2010.

**Millisa Gary,**

*Acting Director, Federal Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 4, 12, 19, 22, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 12, 19, 22, 52, and 53 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

## PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

### 1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory paragraph, by removing FAR segments 52.219-19, 52.219-20, and 52.219-21, and their corresponding OMB Control Number 9000-0100.

## PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.603 by revising paragraph (b) to read as follows:

### 4.603 Policy.

\* \* \* \* \*

(b) Executive agencies shall use FPDS to maintain publicly available information about all contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.

\* \* \* \* \*

### 4.606 [Amended]

■ 4. Amend section 4.606 by removing paragraph (a)(2); and redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively.

### 4.1202 [Amended]

■ 5. Amend section 4.1202 by removing paragraphs (k) and (l); and redesignating paragraphs (m) through (ee) as paragraphs (k) through (cc), respectively.

## PART 12—ACQUISITION OF COMMERCIAL ITEMS

### 12.303 [Amended]

■ 6. Amend section 12.303 by removing from the end of paragraph (b)(1) “, or if set aside for emerging small businesses”.

### 12.603 [Amended]

■ 7. Amend section 12.603 by removing the second sentence of paragraph (c)(2)(iv).

## PART 19—SMALL BUSINESS PROGRAMS

### 19.304 [Amended]

■ 8. Amend section 19.304 by removing from the first sentence in the introductory text in paragraph (c) “52.212-3(c)(9)” and adding “52.212-3(c)(8)” in its place.

■ 9. Amend section 19.502-2 by revising the last sentence in paragraph (a); and by removing paragraph (d).

The revised text reads as follows:

**19.502–2 Total small business set-asides.**

(a) \* \* \* The small business reservation does not preclude the award of a contract with a value not greater than \$150,000 under subpart 19.8, Contracting with the Small Business Administration, or under 19.1305, HUBZone set-aside procedures.

\* \* \* \* \*

**Subpart 19.10—[Removed and Reserved]**

- 10. Remove and reserve subpart 19.10.

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS****22.1006 [Amended]**

- 11. Amend section 22.1006 by—
  - a. Removing from paragraph (a)(2)(i)(C) “52.204–8(c)(2)(v) or (vi)” and adding “52.204–8(c)(2)(iii) or (iv)” in its place;
  - b. Removing from paragraph (e)(2)(i) “52.204–8(c)(2)(v)” and adding “52.204–8(c)(2)(iii)” in its place; and
  - c. Removing from paragraph (e)(4)(i) “52.204–8(c)(2)(vi)” and adding “52.204–8(c)(2)(iv)” in its place.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****52.204–8 [Amended]**

- 12. Amend section 52.204–8 by—
  - a. Removing from the date of the provision “Oct 2010” and adding “(JAN 2011)” in its place;
  - b. Removing paragraphs (c)(2)(i) and (c)(2)(ii); and
  - c. Redesignating paragraphs (c)(2)(iii) through (c)(2)(x) as paragraphs (c)(2)(i) through (c)(2)(viii), respectively.

**52.212–3 [Amended]**

- 13. Amend section 52.212–3 by—
  - a. Removing from the date of the provision “Oct 2010” and adding “(JAN 2011)” in its place;
  - b. Removing from paragraph (a), the definition “Emerging small business”;
  - c. Removing paragraph (c)(8); and
  - d. Redesignating paragraphs (c)(9) and (c)(10) as paragraphs (c)(8) and (c)(9), respectively.

**52.219–19 through 52.219–21 [Removed and Reserved]**

- 14. Remove and reserve sections 52.219–19 through 52.219–21.

**PART 53—FORMS****53.212 [Amended]**

- 15. Amend section 53.212 by removing “SF 1449, (Rev. 3/2005)” and adding “SF 1449, (Rev. 10/2010)” in its place.

**53.213 [Amended]**

- 16. Amend section 53.213 by removing from paragraphs (a) and (f) “SF 1449, (Rev. 3/2005)” and adding “SF 1449, (Rev. 10/2010)”, respectively, in its place; and by removing from paragraph (f) “OF 347 (Rev. 4/06)” and adding “OF 347, (Rev. 10/2010)” in its place.

**53.214 [Amended]**

- 17. Amend section 53.214 by removing from paragraph (d) “SF 1447 (APR 2008)” and adding “SF 1447 (Rev. 11/2010)” in its place.

**53.236–1 [Amended]**

- 18. Amend section 53.236–1 by removing from paragraph (e) “OF 347 (Rev. 03/2005)” and adding “OF 347, (Rev. 10/2010)” in its place.
- 19. Amend section 53.301–1447 by revising the form to read as follows:

**53.301–1447 Solicitation/Contract.**

BILLING CODE 6820-EP-P

<b>SOLICITATION/CONTRACT</b>				1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING		PAGE OF	
BIDDER/OFFEROR TO COMPLETE BLOCKS 11, 13, 15, 21, 22, & 27									
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. SOLICITATION NUMBER		5. SOLICITATION TYPE <input type="checkbox"/> SEALED BIDS (IFB) <input type="checkbox"/> NEGOTIATED (RFP)		6. SOLICITATION ISSUE DATE	
7. ISSUED BY		CODE		8. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: _____ SIZE STANDARD: _____					
NO COLLECT CALLS									
9. (AGENCY USE)									
10. ITEMS TO BE PURCHASED (BRIEF DESCRIPTION) <input type="checkbox"/> SUPPLIES <input type="checkbox"/> SERVICES									
11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS (60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD) FROM THE DATE SET FORTH IN BLOCK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM FOR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN.					12. ADMINISTERED BY _____ CODE _____				
13. CONTRACTOR OFFEROR CODE _____ FACILITY CODE _____					14. PAYMENT WILL BE MADE BY _____ CODE _____				
TELEPHONE NUMBER _____ DUNS NUMBER _____ <input type="checkbox"/> CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER					SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK:				
15. PROMPT PAYMENT DISCOUNT					16. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304 <input type="checkbox"/> 41 U.S.C. 253 ( ) ( )				
17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES				19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT	
23. ACCOUNTING AND APPROPRIATION DATA							24. TOTAL AWARD AMOUNT (FOR GOVERNMENT USE ONLY)		
25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO <input type="checkbox"/> ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.					26. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: <input type="checkbox"/>				
27. SIGNATURE OF OFFEROR/CONTRACTOR					28. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)				
NAME AND TITLE OF SIGNER (TYPE OR PRINT)			DATE SIGNED		NAME OF CONTRACTING OFFICER			DATE SIGNED	

AUTHORIZED FOR LOCAL REPRODUCTION  
PREVIOUS EDITION NOT USABLE

**STANDARD FORM 1447** (REV. 11/2010)  
Prescribed by GSA - FAR (48 CFR) 53.214(d)

NO RESPONSE FOR REASONS CHECKED			
	CANNOT COMPLY WITH SPECIFICATIONS		CANNOT MEET DELIVERY REQUIREMENT
	UNABLE TO IDENTIFY THE ITEM(S)		DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
	OTHER (Specify)		
	WE DO	WE DO NOT, DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEMS INVOLVED	
NAME AND ADDRESS OF FIRM (Include Zip Code)		SIGNATURE	
		TYPE OR PRINT NAME AND TITLE OF SIGNER	
<div style="display: flex; justify-content: space-between;"><div style="width: 60%;">FROM:</div><div style="width: 35%; text-align: right;">AFFIX STAMP HERE</div></div> <div style="text-align: center; margin-top: 100px;">TO:</div> <div style="margin-top: 100px;">SOLICITATION NO. _____</div> <div style="margin-top: 10px;">DATE AND LOCAL TIME _____</div>			

STANDARD FORM 1447 (REV. 11/2010) BACK

■ 20. Amend section 53.301-1449 by  
revising the form to read as follows:

**53.301-1449 Solicitation/Contract/Order  
for Commercial Items.**

**STANDARD FORM 1449** (REV. 10/2010)  
Prescribed by GSA - FAR (48 CFR) 53.212

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN  
☐ RECEIVED    ☐ INSPECTED    ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: \_\_\_\_\_

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
		32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL				

38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY ( <i>Print</i> )	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	42b. RECEIVED AT ( <i>Location</i> )	
	41c. DATE	42c. DATE REC'D ( <i>YYMM/DD</i> )
		42d. TOTAL CONTAINERS

STANDARD FORM 1449 (REV. 10/2010) BACK

■ 21. Amend section 53.302–347 by  
revising the form to read as follows:

**53.302–347 Order for Supplies or Services.**

<b>ORDER FOR SUPPLIES OR SERVICES</b>						PAGE      OF      PAGES	
<b>IMPORTANT: Mark all packages and papers with contract and/or order numbers.</b>							
1. DATE OF ORDER		2. CONTRACT NO. (If any)		6. SHIP TO:			
3. ORDER NO.		4. REQUISITION/REFERENCE NO.		a. NAME OF CONSIGNEE			
5. ISSUING OFFICE (Address correspondence to)				b. STREET ADDRESS			
7. TO:				c. CITY		d. STATE	e. ZIP CODE
a. NAME OF CONTRACTOR				f. SHIP VIA			
b. COMPANY NAME				8. TYPE OF ORDER			
c. STREET ADDRESS				<input type="checkbox"/> a. PURCHASE REFERENCE YOUR: _____ Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheet, if any, including delivery as indicated.		<input type="checkbox"/> b. DELIVERY -- Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.	
d. CITY		e. STATE		f. ZIP CODE			
9. ACCOUNTING AND APPROPRIATION DATA				10. REQUISITIONING OFFICE			
11. BUSINESS CLASSIFICATION (Check appropriate box(es))						12. F.O.B. POINT	
<input type="checkbox"/> a. SMALL <input type="checkbox"/> b. OTHER THAN SMALL <input type="checkbox"/> c. DISADVANTAGED <input type="checkbox"/> d. WOMEN-OWNED <input type="checkbox"/> e. HUBZone <input type="checkbox"/> f. SERVICE-DISABLED VETERAN-OWNED							
13. PLACE OF		14. GOVERNMENT B/L NO.		15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)		16. DISCOUNT TERMS	
a. INSPECTION		b. ACCEPTANCE					
<b>17. SCHEDULE (See reverse for Rejections)</b>							
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)	
18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT		20. INVOICE NO.		17(h) TOT. ◁ (Cont. pages)	
21. MAIL INVOICE TO:							
a. NAME							
SEE BILLING INSTRUCTIONS ON REVERSE		b. STREET ADDRESS (or P.O. Box)				17(i) ◁ GRAND TOTAL	
		c. CITY		d. STATE	e. ZIP CODE		
22. UNITED STATES OF AMERICA BY (Signature) ▷				23. NAME (Typed)			
				TITLE: CONTRACTING/ORDERING OFFICER			

 AUTHORIZED FOR LOCAL REPRODUCTION  
 PREVIOUS EDITION NOT USABLE

 OPTIONAL FORM 347 (REV. 10/2010)  
 Prescribed by GSA/FAR 48 CFR 53.213(f)

If desired, this order (or a copy thereof) may be used by the Contractor as the Contractor's invoice, instead of a separate invoice, provided the following statement, (signed and dated) is on (or attached to) the order: "Payment is requested in the amount of \$ \_\_\_\_\_. No other invoice will be submitted." However, if the Contractor wishes to submit an invoice, the following information must be provided: contract number (if any), order number, item number(s), description of supplies or service, sizes, quantities, unit prices, and extended totals. Prepaid shipping costs will be indicated as a separate item on the invoice. Where shipping costs exceed \$10 (except for parcel post), the billing must be supported by a bill of lading or receipt. When several orders are invoiced to an ordering activity during the same billing period, consolidated periodic billings are encouraged.

Quantity in the "Quantity Accepted" column on the face of this order has been: ☐ inspected, ☐ accepted, ☐ received by me  
and conforms to contract. Items listed below have been rejected for the reasons indicated.

SHIPMENT NUMBER	PARTIAL		DATE RECEIVED	SIGNATURE OF AUTHORIZED U.S. GOV'T REP.	DATE
	FINAL				
TOTAL CONTAINERS		GROSS WEIGHT	RECEIVED AT	TITLE	

ITEM NO.	SUPPLIES OR SERVICES	UNIT	QUANTITY REJECTED	REASON FOR REJECTION

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**BILLING CODE**