

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

Expanding the definition of “contingency operation” to include responding to a Presidential declaration of a major disaster or emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) will increase the circumstances under which “contingency operations” may be declared, thereby allowing defense and civilian agencies to raise thresholds (*i.e.*, micro-purchase and simplified acquisition thresholds) for acquisitions made in support of emergencies in accordance with the authorities listed at FAR 18.201, and exercise preferences, such as local area set-asides or evaluation preferences.

Because “local businesses” may vary in size and business ownership, and the locations of disasters vary, we do not expect the amendment to have a direct and sustained economic impact on a substantial number of small entities. However, there is the possibility that, because the Robert T. Stafford Disaster Relief and Emergency Assistance Act provides for a preference for local organizations, firms, and individuals when contracting for major disaster or emergency activities, implementation of the revised definition for “contingency operation” may increase opportunities for awarding contracts to small entities located at or near major disaster areas or emergency activities.

In addition, FAR 19.502–2(a) requires simplified acquisitions during a contingency operation within the United States (\$300,000 instead of \$150,000) to be automatically reserved for small businesses (with the usual exceptions). The ability to restrict purchases up to two times the normal simplified acquisition threshold for small businesses will have a significant positive impact on small entities.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 2

Government procurement.

Dated: July 26, 2013.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR part 2, which was published in the **Federal Register** at 78 FR 13765 on February 28, 2013 is adopted as a final rule without change.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 25, and 52

[FAC 2005–69; FAR Case 2012–030; Item II; Docket 2012–0030, Sequence 1]

RIN 9000–AM44

Federal Acquisition Regulation; Iran Threat Reduction

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with minor changes, the interim rule amending the Federal Acquisition Regulation (FAR) to require certifications that implement the expansion of sanctions relating to the energy sector of Iran and sanctions with respect to Iran’s Revolutionary Guard Corps, as contained in titles II and III of the Iran Threat Reduction and Syria Human Rights Act of 2012.

DATES: *Effective:* August 1, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–69, FAR Case 2012–030.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 77 FR 73516, on December 10, 2012, to implement sections of titles II and III of the Iran Threat Reduction and Syria

Human Rights Act of 2012 (Pub. L. 112–158), enacted August 10, 2012.

The public comment period closed on February 8, 2013. One respondent submitted a comment.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comment in the development of the final rule. A discussion of the comment and the changes made to the rule as a result of the comment is provided as follows:

A. Summary of Significant Changes

There are no significant changes to the FAR as a result of this final rule.

B. Analysis of Public Comment

Comment: One respondent commented that boycotts rarely work. The respondent supported military action against Iran to destroy their nuclear arms program.

Response: This rule implements the expansion of sanctions relating to the energy sector of Iran and sanctions with respect to Iran’s Revolutionary Guard Corps, as contained in titles II and III of the Iran Threat Reduction and Syria Human Rights Act of 2012. The respondent’s recommendation is outside the scope of the rule and the authority of the FAR and acquisition community.

C. Other Changes

The final rule corrects the title of the Act at FAR 25.700(c) to read “Iran Threat Reduction and Syria Human Rights Act of 2012”. The final rule also corrects the Web site address at FAR 25.703–3 and 52.213–3 to read <http://www.acquisition.gov>.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. 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.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule will only have significant impact on an offeror that is engaging in an activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act or certain transactions with Iran's Revolutionary Guard Corps. Domestic entities generally do not engage in activity that would cause them to be subject to the procurement bans described in this rule due to current restrictions on trade with Iran (see, *e.g.*, Department of Treasury Office of Foreign Assets Control regulations at 31 CFR 560). Accordingly, it is expected that the number of domestic entities significantly impacted by this rule will be minimal, if any. The Regulatory Flexibility Act is for the protection of United States small entities, not foreign entities.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 4, 25, and 52

Government procurement.

Dated: July 26, 2013.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 4, 25, and 52, which was published in the **Federal Register** at 77 FR 73516, December 10, 2012, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 25—FOREIGN ACQUISITION

25.700 [Amended]

■ 2. Amend section 25.700 by removing from paragraph (c) “Reduction Act” and adding “Reduction” in its place.

25.703–3 [Amended]

■ 3. Amend section 25.703–3 by removing from paragraph (a) “<https://www.acquisition.gov>” and adding “<http://www.acquisition.gov>” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 52.212–3 by revising the date of the provision and by removing from the introductory text and paragraph (b)(2) “<https://www.acquisition.gov>” and adding “<http://www.acquisition.gov>” in its place.

The revision reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

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Offeror Representations and Certifications—Commercial Items (AUG 2013)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 12, 15, 17, 42, and 49

[FAC 2005–69; FAR Case 2012–009; Item III; Docket 2012–0009, Sequence 1]

RIN 9000–AM09

Federal Acquisition Regulation; Documenting Contractor Performance

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 provide Governmentwide standardized past performance evaluation factors and performance rating categories and require that past performance information be entered into the Contractor Performance Assessment Reporting System (CPARS), the single Governmentwide past performance reporting system.

DATES: *Effective:* September 3, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448, for

clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–69, FAR Case 2012–009.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 76 FR 37704 on June 28, 2011, under FAR Case 2009–042, to implement recommendations from Government Accountability Office (GAO) Report GAO–09–374, entitled “Better Performance Information Needed to Support Agency Contract Award Decisions,” and Office of Federal Procurement Policy (OFPP) memorandum entitled “Improving the Use of Contractor Performance Information” (dated July 29, 2009). Two amendments to the proposed rule were published in the **Federal Register** at 76 FR 48776 on August 9, 2011, and at 76 FR 50714 on August 16, 2011. Twenty three respondents submitted comments on the proposed rule. A second proposed rule that was published in the **Federal Register** at 77 FR 54864 on September 6, 2012, addressed all comments received in response to the first proposed rule and, in addition, proposed to implement paragraphs (a), (b), and (d) of section 806 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81). The second proposed rule further requested comments on the merits of modifying the FAR requirements governing the appeal process to evaluate if this would improve or weaken the effectiveness of past performance policies and associated principles of impartiality and accountability. Seventeen respondents submitted comments on the second proposed rule. This rule also incorporates agency management accountability requirements from section 853 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239). In the interim, the Governmentwide Guidance for the Contractor Performance Assessment Reporting System (CPARS) was released in November 2012 and is available at <http://www.cpars.gov/cparsfiles/pdfs/CPARS-Guidance.pdf>.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows: