

Further, the changes that are being made to the Addendum by this Correction Notice, including the changes to reflect the correct CIPI of 1.2 percent, do not constitute rules subject to notice and comment rulemaking under section 553 of the Administrative Procedure Act, as the changes merely ensure that the Addendum conforms to the rules and methodologies that have already been adopted through such notice and comment rulemaking.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 2, 2009.

Dawn L. Smalls,

Executive Secretary to the Department.

[FR Doc. E9–24202 Filed 10–2–09; 4:15 pm]

BILLING CODE 4120–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 503 and 552

GSAR Amendment 2009–12; GSAR Case 2008–G502 (Change 40) Docket 2008–0007; Sequence 7

RIN 3090–A163

General Services Administration Acquisition Regulation; Rewrite of GSAR Part 503; Improper Personal Conflicts of Interest

AGENCIES: General Services Administration (GSA), Office of the Acquisition Policy.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) by revising the regulations pertaining to Improper Business Practices and Personal Conflicts of Interest. This rule is a product of the GSAM Rewrite Initiative undertaken by GSA to revise the regulation to maintain consistency with the FAR and implement streamlined and innovative acquisition procedures for contractors, offerors, and GSA contracting personnel. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

DATES: *Effective Date:* October 7, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ernest Woodson, Procurement Analyst, at (202) 501–3775. For information pertaining to status or publication schedules, contact

the Regulatory Secretariat (MVR), Room 4041, 1800 F Street, NW, Washington, DC, 20405, (202) 501–4755. Please cite Amendment 2009–12, GSAR case 2008–G502 (Change 40).

SUPPLEMENTARY INFORMATION:

A. Background

This final rule is a result of the General Services Administration Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA acquisition personnel can use when entering into and administering contractual relationships. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

An Advanced Notice of Proposed Rulemaking was published at 71 FR 7910, February 15, 2006, for the GSAM Rewrite Projects and public comments were received. However, none of the comments were specific to Part 503. The case was assigned to GSAM Part 503 Rewrite Team on February 18, 2008. A Team report was completed on March 3, 2008.

To ensure completeness, internal comments were solicited and received from GSA Regions 1, 2, 3, 6, 7, 8, 10, and 11, GSA published a proposed rule with request for comments in the **Federal Register** at 73 FR 45194, August 4, 2008. The public comment period closed October 3, 2008. One response was received with three comments. This final rule reconciles the conclusions from the Team report with the internal comments, and public comment as follows:

Public Comments

Comment: The respondent was concerned that the requirement in 503.204(c) for an agency fact-finding official to be designated by GSA Board of Contract Appeals was not revised to indicate that the Civilian Board of Contract Appeals (CBCA) would designate the official as means of ensuring that disputes over gratuities violations are handled independently and objectively.

Response: The CBCA will not designate an agency fact-finding official for the treatment of violations under 503.204, as its current operating procedures do not encompass the activity. The Senior Procurement Executive will refer matters under the jurisdiction of GSAR 503.204 to the Suspension and Debarment Official, in accordance with GSAR 509.403, because

the Suspension and Debarment Official is the individual who can appoint a fact-finding official, should one be necessary.

Comment: The respondent was concerned that 503.1004 does not provide a specific rationale for establishing a lower threshold, or why that threshold would be \$1,000,000. The respondent believes that the subsection makes the threshold sound arbitrary.

Response: FAR 3.1004(b)(1)(i) provides for agencies to establish a threshold lower than \$5,000,000. Pursuant to FAR 1.302(b), agency acquisition regulations may supplement the FAR to include additional policies and procedures that satisfy the specific needs of the agency. GSA's lower threshold of \$1,000,000 is based on GSA's unique acquisition mission and the dollar amount of an order that may be placed by GSA, under a task and delivery order contract. Further, the lower threshold insures greater visibility for the detection of fraud in Federal contracts ensuring protection for the taxpayer.

Comment: 503.1004(b)—The fill-in includes the acronym "OIG". Spell out as Office of the Inspector General. The FAR does otherwise include a reference to OIG.

Response: GSA concurs with the respondent and will make the change accordingly.

The Rewrite of Part 503

This final rule contains revisions to Part 503, Improper Business Practices and Personal Conflicts of Interest. There are no substantive changes to the policies. The rule revises GSAR Subpart 503.1 Safeguards; deletes 503.104–1 and 503.104–9, to ensure consistency with the GSAM that provides that the acquisition of leasehold interests in real property is established by GSAM Part 570; deletes 503.104–4, because post employment restrictions are covered under Federal conflicts of interest laws and the Procurement Integrity Act that every employee has a responsibility to know; adds 503.104–2, to indicate that acquisition officials are responsible for knowing the post-employment restrictions in FAR 3.104–2(b)(3) and in the Procurement Integrity Act; rennumbers 503.104–5 to 503.104–4 and revises 503.104–4, adds appropriate GSAM and FAR references for the release of information to outside evaluators and deletes inappropriate forms and language already addressed in other GSAM subsections; and rennumbers 503.104–10 to 503.104–7, for consistency with the FAR numbering sequence.

Revises Subpart 503.2 Contractor Gratuities to Government Personnel; revises 503.203(a) by deleting the reference to the Code of Federal Regulations and relocating the reference at the end of 503.203(c) in order to ensure the integrity of the subsection; revises 503.204(a)(2), by deleting the phrase "joint venture" in order to ensure grammatical and structural clarity; revises 503.204(c), by replacing "the Chairman of the GSA Board of Contract Appeals" with "the Suspension and Debarment Official in accordance with FAR 509.403," because the GSA Board of Contract Appeals no longer exists; and revises 503.204(f), to ensure consistency with FAR 3.204(f).

Revises Subpart 503.3 Reports of Suspected Antitrust Violations; revises 503.303, to ensure grammatical and structural clarity.

Revises Subpart 503.4 Contingents Fees; by deleting 503.404, in order to ensure consistency with the GSAM which provides that the acquisition of leasehold interests in real property is established by GSAM Part 570, and revises 503.405 to ensure grammatical and structural clarity.

Revises Subpart 503.5 Other Improper Business Practices; revises 503.570-1 to delete the term "referring" and add "making references" for clarity.

Revises Subpart 503.7 Voiding and Rescinding Contracts; revises 503.702 to delete the definition for "Notice" and "Voiding and rescinding official" as the terms do not require definition; adds a new section 503.703 in order to identify the Senior Procurement Executive as having the authority to void and rescind contracts pursuant to FAR 3.703 and 3.705(b); relocates 503.705 from the GSAR to the manual part of the GSAM, because it relates to internal administrative procedures; revises 503.705 by revising 503.705(a)(1) to add "the contracting officer shall" to ensure clarity; revises 503.705(a)(2), to delete "you may" and "voiding and rescinding official" and add "the contracting officer shall," "Senior Procurement Executive," and "and shall," to ensure clarity and continuity; revises 503.705(a)(2)(i) to add "Identify" to ensure clarity; revises 503.705(2) by adding paragraphs (ii) and (iii) to ensure grammatical and structural integrity; deletes 503.705(a)(3) because the contracting officer does not have the authority cited in the subsection; revises 503.705(b) to delete "Voiding and rescinding official's," and add "Senior Procurement Executive" to ensure continuity; revises 503.705(b)(1), to delete "the voiding and rescinding official" to ensure continuity; revises 503.705(b)(2) to ensure grammatical and

structural integrity; revises 503.705(b)(3) to ensure grammatical and structural integrity; revises 503.705(b)(4) to delete "voiding and rescinding official" and add "Senior Procurement Executive," in order to ensure continuity; revises 503.705(b)(5), to delete "The official" to ensure clarity; and revises 503.705(c)(5), to ensure clarity.

Revises Subpart 503.8 Limitation on the Payment of Funds to Influence Federal Transactions; revises 503.806 to ensure grammatical and structural integrity, and deletes "Inspector General for Investigation" and adds "Special Agent in Charge," to ensure clarity.

Adds a new Subpart 503.10 Contractor Code of Business Ethics and Conduct; establishes a lower threshold for the inclusion of FAR 52.203-14 Display of Hotline Poster(s) at 503.1004(a) and includes the name of the poster and where the poster may be obtained at 503.1004(b)(i) and (ii), pursuant to FAR 52.203-14(b)(3).

Deletes GSAR 552.203-5 Covenant Against Contingent Fees; in order to ensure consistency with the GSAM that provides that the acquisition of leasehold interests in real property is established by GSAM Part 570, and deletes GSAR 552.203-70 to ensure consistency with the GSAM requirements that leasehold interests in real property is established by GSAM Part 570.

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.

B. Regulatory Flexibility Act

The General Services Administration certifies 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 no new requirements are being placed on the vendor community. No comments on this issue were received from small business concerns or other interested parties.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Parts 503 and 552

Government procurement.

Dated: September 30, 2009

David A. Drabkin,

Senior Procurement Executive, Office of Acquisition Policy, General Services Administration.

■ Therefore, GSA amends 48 CFR parts 503 and 552 as set forth below:

PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 503 is revised to read as follows:

Authority: 40 U.S.C. 121(c).

503.104-3 and 503.104-9 [Removed]

■ 2. Remove sections 503.104-3 and 503.104-9.

■ 3. Amend section 503.204 by—

■ a. Removing the period at the end of paragraph (a)(1) and adding ";" in its place;

■ b. Removing from paragraph (a)(2) "or joint venture" and adding "and" in its place;

■ c. Revising the first sentence of the introductory text of paragraph (c); removing the period at the end of paragraphs (c)(1) and (c)(2) and adding ";" in its place; and removing the period at the end of paragraph (c)(3) and adding "and" in its place; and

■ d. Revising the first sentence of paragraph (f).

The revised text reads as follows:

503.204 Treatment of violations.

* * * * *

(c) If there is a dispute of fact material to making a determination, the Senior Procurement Executive, or designee, may refer the matter to an agency fact-finding official, designated by the Suspension and Debarment Official, in accordance with GSAR 509.403. * * *

* * * * *

(f) If the Gratuities clause was violated, the contractor may present evidence of mitigating factors to the Senior Procurement Executive, or designee, in accordance with FAR 3.204(b) either orally or in writing, consistent with a schedule the Senior Procurement Executive, or designee, establishes. * * *

503.404 [Removed]

■ 4. Remove section 503.404.

503.570-1 [Amended]

■ 5. Amend section 503.570-1 by removing "referring" and adding "making references" in its place.

503.702 [Removed]

■ 6. Remove section 503.702.

503.703 [Added]

■ 7. Add section 503.703 to read as follows:

503.703 Authority.

Pursuant to FAR 3.703 and 3.705(b), the authority to void or rescind contracts resides with the Senior Procurement Executive.

503.705 [Removed]

■ 8. Remove section 503.705.

■ 9. Add Subpart 503.10 to read as follows:

Subpart 503.10—Contractor Code of Business Ethics and Conduct**503.1004 Contract clauses.**

(a) The FAR threshold for the clause at 52.203–14, Display of Hotline Poster(s), is \$5,000,000. However, GSA has exercised the authority provided at FAR 3.1004(b)(1)(i) to establish a lower threshold, \$1,000,000, for inclusion of the clause when the contract or order is funded with disaster assistance funds.

(b) The information required to be inserted in the clause at FAR 52.203–14, Display of Hotline Poster(s), is as follows:

- (1) Poster: GSA Office of Inspector General “FRAUDNET HOTLINE”;
- (2) Obtain from: Contracting Officer.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

552.203–5 and 552.203–70 [Removed]

■ 11. Remove sections 552.203–5 and 552.203–70.

[FR Doc. E9–24158 Filed 10–6–09; 8:45 am]

BILLING CODE 6820–61–S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 0809251266–81485–02]

RIN 0648–XR94

Fisheries of the Northeastern United States; Scup Fishery; Commercial Quota Harvested for 2009 Summer Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the scup commercial coastwide fishery from Maine through North Carolina for the remainder of the Summer Period. Regulations governing the scup fishery require publication of this notification to advise the coastal states from Maine through North Carolina that this quota has been harvested and to advise Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing scup in these states. Federally permitted commercial vessels may not land scup in these states for the remainder of the 2009 Summer quota period (through October 31, 2009).

DATES: Effective 0001 hours, Thursday, October 7 through October 31, 2009.

FOR FURTHER INFORMATION CONTACT: Sarah Bland, Fishery Management Specialist, (978) 281–9257.

SUPPLEMENTARY INFORMATION:

Regulations governing the scup fishery are found at 50 CFR part 648. The regulations at § 648.121 require the Regional Administrator to monitor the commercial scup quota for each quota period and, based upon dealer reports, state data, and other available information, to determine when the commercial quota for a period has been harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the scup commercial quota has been harvested and no commercial quota is available for landing scup for the remainder of the Summer Period. Based upon recent projections, the Regional Administrator has determined that the Federal commercial quota of 2,930,733 lb (1,329 mt) for the 2009 Summer Period will be fully harvested by or before October 31, 2009. To maintain the integrity of the 2009 Summer Period quota by avoiding or minimizing quota overages, the commercial scup fishery will close for the remainder of the Summer Period (through October 31, 2009) in Federal waters, effective as of the date specified above (see **DATES**).

Section 648.4(b) provides that Federal scup moratorium permit holders agree, as a condition of the permit, not to land scup in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for scup is available. Therefore, effective 0001 hours, Thursday, October 8, 2009, further landings of scup by vessels holding Federal scup moratorium permits are prohibited through October

31, 2009. Effective 0001 hours, Thursday, October 8, 2009, federally permitted dealers are also advised that they may not purchase scup from federally permitted vessels that land in coastal states from Maine through North Carolina for the remainder of the Summer Period (through October 31, 2009). The Winter II Period for commercial scup harvest will open on November 1, 2009.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 2, 2009.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–24177 Filed 10–05–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 090601946–91010–01]

RIN 0648–AX94

Fisheries of the Exclusive Economic Zone Off Alaska, Groundfish Observer Program; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correcting amendments.

SUMMARY: This action makes four corrections to regulations. It corrects a final rule removing the December 31, 2007, expiration date for regulations governing the North Pacific Observer Program. NMFS intended this final rule to remove the expiration date from all paragraphs, however, due to the overlay of an additional and overlooked expiration date in a different final rule, NMFS inadvertently removed the regulations governing observer coverage for catcher/processors and motherships participating in the pollock fisheries in the Bering Sea and Aleutian Islands management area. This correcting amendment reinstates those observer coverage requirements. In addition, this rule corrects a cross-reference error; removes an expiration date; and removes effective dates that have now passed from certain paragraphs.

DATES: Effective October 7, 2009.