

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are issuing a final rule amending the Federal Acquisition Regulation (FAR) to reflect reissuance of the Federal Emergency Management Agency's (FEMA) National Response Plan (NRP). On January 22, 2008, FEMA reissued the NRP as the National Response Framework (NRF). In addition, the term "Incident of National Significance" was eliminated. These changes became effective on March 22, 2008.

DATES: *Effective Date:* November 13, 2009

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Ed Loeb, Director, Contract Policy Division at (202) 501-0650. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-37, FAR case 2009-003.

SUPPLEMENTARY INFORMATION:

A. Background

On January 22, 2008, FEMA, a component of the Department of Homeland Security, reissued the National Response Plan (NRP) as the National Response Framework (NRF). With the reissuance, the term "Incidents of National Significance" was eliminated. These changes became effective on March 22, 2008. Both the NRP and the term "Incidents of National Significance" are now obsolete.

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 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 and Public Law 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities and other interested parties concerning the affected FAR part 18 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2005-37, FAR case 2009-003), in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the

FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Part 18

Government procurement.

Dated: October 5, 2009.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 18 as set forth below:

PART 18—EMERGENCY ACQUISITIONS

■ 1. The authority citation for 48 CFR part 18 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).

■ 2. Amend section 18.001 by revising paragraph (c) to read as follows:

18.001 Definition.

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(c) When the President issues an emergency declaration, or a major disaster declaration.

■ 3. Amend section 18.203 by revising the section heading to read as follows:

18.203 Emergency declaration or major disaster declaration.

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■ 4. Amend section 18.204 by revising paragraph (a) to read as follows:

18.204 Resources.

(a) *National Response Framework.* The National Response Framework (NRF) is a guide to how the Nation conducts all-hazards response. This key document establishes a comprehensive, national, all-hazards approach to domestic incident response. The Framework identifies the key response principles, roles and structures that organize national response. It describes how communities, States, the Federal Government, the private-sector, and nongovernmental partners apply these principles for a coordinated, effective national response. It also describes special circumstances where the Federal Government exercises a larger role, including incidents where Federal interests are involved and catastrophic incidents where a State would require significant support. The NRF is available at <http://www.fema.gov/emergency/nrf/>.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5 and 52

[FAC 2005-37; Item VIII; Docket 2009-0009; Sequence 5]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to make editorial changes.

DATES: *Effective Date:* October 14, 2009.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1800 F Street, NW., Room 4041, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-37, Technical Amendments.

SUPPLEMENTARY INFORMATION: This document makes amendments to the Federal Acquisition Regulation in order to make editorial changes.

List of Subjects in 48 CFR Parts 5 and 52

Government procurement.

Dated: October 5, 2009.

Al Matera,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 5 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 5 and 52 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 5—PUBLICIZING CONTRACT ACTIONS

5.102 [Amended]

■ 2. Amend section 5.102 by removing from paragraph (a)(5)(ii) "GPE;" and adding "GPE; or" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.213-4 by revising the date of the clause; and removing from paragraph (a)(1)(v) "(Feb 2006)" and adding "(June 2008)" in its place.

■ The revised text reads as follows:

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

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TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (OCT 2009)

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52.244-6 [Amended]

■ 4. Amend section 52.244-6 by removing from the clause heading “(August 11, 2009)” and adding “(Aug 2009)” in its place.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2009-0002, Sequence 8]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-37; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the

Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005-37 which amend the FAR. Interested parties may obtain further information regarding these rules by referring to FAC 2005-37 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, FAR Secretariat, (202) 208-7282. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2005-37

Item	Subject	FAR case	Analyst
I	Registry of Disaster Response Contractors (Interim)	2008-035	Loeb.
II	Limiting Length of Noncompetitive Contracts in “Unusual and Compelling Urgency” Circumstances.	2007-008	Woodson.
III	GAO Access to Contractor Employees	2008-026	Loeb.
IV	Use of Commercial Services Item Authority (Interim)	2008-034	Chambers.
V	Limitations on Pass-Through Charges (Interim)	2008-031	Chambers.
VI	Award Fee Language Revision (Interim)	2008-008	Chambers.
VII	National Response Framework	2009-003	Loeb.
VIII	Technical Amendments		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005-37 amends the FAR as specified below:

Item I—Registry of Disaster Response Contractors (FAR Case 2008-035) (Interim)

This interim rule amends the FAR at parts 2, 4, 7, 10, 13, 18, 26, and 52 to implement the Registry of Disaster Response Contractors provision, section 697 of the Department of Homeland Security (DHS) Appropriations Act, 2007 (6 U.S.C. 796).

The Act requires that the Federal Emergency Management Agency (FEMA) establish and maintain this registry. It also requires that the registry include business information consistent with the data that is currently required in the Central Contractor Registration (CCR) with two additional categories added to reflect the area served by the business, and the bonding level of the business concern. The CCR has been

updated to include these changes. In addition, the FEMA website has been updated with a link to the CCR search feature which provides access to the disaster response registry. Contracting officers will be required to consult this registry during market research and acquisition planning.

Item II—Limiting Length of Noncompetitive Contracts in “Unusual and Compelling Urgency” Circumstances (FAR Case 2007-008)

This final rule amends the FAR to require that contracts awarded under the authority of FAR 6.302-2, Unusual and compelling urgency, may not exceed the time necessary to meet the unusual and compelling requirements, may not exceed the time for the agency to enter into another contract for the required goods and services through the use of competitive procedures, and may not exceed one year unless the head of the agency entering into the contract determines that exceptional circumstances apply. The determination may be made after contract award when making the determination prior to award would unnecessarily delay the award. The rule applies to any contract

in an amount greater than the simplified acquisition threshold. The rule implements the requirements of section 862 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year 2009 (Pub. L. 110-417). The rule is intended to strengthen Federal acquisition competition policies.

Item III—GAO Access to Contractor Employees (FAR Case 2008-026)

This final rule converts the interim rule published in the **Federal Register** at 74 FR 14649, March 31, 2009, to a final rule without change. The interim rule amended FAR 52.215-2, Audits and Records—Negotiation, and FAR 52.214-26, Audit and Records—Sealed Bidding, to allow the Government Accountability Office to interview current contractor employees when conducting audits. The rule does not apply to the acquisition of commercial items; therefore, FAR 12.503 was amended to add the exemption of this rule. This change implemented section 871 of the Duncan Hunter NDAA for Fiscal Year 2009 (Pub. L. 110-417).