

DEPARTMENT OF THE INTERIOR**Office of the Secretary**

48 CFR Parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452

RIN 1093-AA13

Acquisition Regulation Miscellaneous Changes

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is amending the Department of the Interior Acquisition Regulation to be consistent with the Federal Acquisition Regulation, and to add a new clause covering contract administration roles and responsibilities.

DATES: This rule is effective on September 12, 2011.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Department of the Interior (DOI) published a proposed rule in the **Federal Register** at 76 FR 15901 on March 22, 2011, to revise the Department of the Interior Acquisition Regulation (DIAR). These changes make minor corrections to DOI acquisition procedures to make the DOI regulation consistent with the Federal Acquisition Regulation (FAR), and add a new clause covering contract administration roles and responsibilities.

The comment period closed May 23, 2011. No public comments were received. DOI has concluded that the proposed rule should be adopted as a final rule with no changes.

1. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

2. The Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements on small entities.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this proposed rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

6. Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between Federal and State governments or impose costs on States or localities. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) of the Order.

8. Paperwork Reduction Act of 1995

This rule does not contain an information collection, as defined by the Paperwork Reduction Act.

9. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

10. Effects on the Energy Supply

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 48 CFR Parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452

Government procurement.

Dated: August 1, 2011.

Rhea S. Suh,

Assistant Secretary for Policy, Management and Budget.

For the reasons set out in the preamble, we amend Chapter 14 of Title 48 Code of Federal Regulations, parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452 as follows:

■ 1. The authority citation for 48 CFR Parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 301.

PART 1401—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION SYSTEM

■ 2. Revise section 1401.670 to read as follows:

1401.670 Contracting officers' representatives.

When a CO elects to appoint an individual to act as an authorized representative in the administration of a contract, the CO must notify the contractor of the COR appointment in writing, and provide the name and contact information of the COR.

■ 3. Revise section 1401.670-1 to read as follows:

1401.670-1 Contract clause.

Insert the clause at 1452.201-70 in solicitations and contracts under which a COR will be appointed.

PART 1402—DEFINITIONS OF WORDS AND TERMS

■ 4. In section 1402.170, remove the entry "BUDS Business Utilization Development Specialist" from the list, and add to the list the entry "SBS Small Business Specialist" after "SBA Small Business Administration."

PART 1415—CONTRACTING BY NEGOTIATION

■ 5. Amend section 1415.404-4 as follows:

■ a. In paragraph (a), remove the reference to "FAR 15.905" and add in its place "FAR 15.404-4."

■ b. Remove paragraph (c).

PART 1417—SPECIAL CONTRACTING METHODS

■ 6. Remove subpart 1417.5.

PART 1419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS

■ 7. In section 1419.202–70, revise paragraph (h) to read as follows:

1419.202–70 Acquisition screening and SBS recommendations.

* * * * *

(h) The CO shall document the rationale for not accepting a SBS

recommendation on DI Form 1886, under “Notes.” (See FAR 19.202.) Disagreements between the CO and the SBS concerning the decision to use a set aside or the 8(a) program shall be resolved by the BPC. The BPC shall annotate the resolution, with signature, in the “Notes” section of the form. The BPC may consult with the OSDBU to obtain assistance in resolving the disagreement.

PART 1436—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 8. In section 1436.270–1, in paragraph (b), revise the table entitled “Table 1436–1—Uniform Contract Format” to read as follows:

1436.270–1 Uniform contract format.

* * * * *
(b) * * *

TABLE 1436–1—UNIFORM CONTRACT FORMAT

Section	Title
Part I—The Schedule	
A	Solicitation/contract form.
B	Bid schedule.
C	Specifications/Drawings.
D	Packaging and marking.
E	Inspection and acceptance.
F	Deliveries or performance.
G	Contract administration data.
H	Special contract requirements.
Part II—Contract Clauses	
I	Contract clauses.
Part III—List of Documents, Exhibits, and Other Attachments	
J	List of attachments.
Part IV—Representations and Instructions	
K	Representations, certifications, and other statements of offerors.
L	Instructions, conditions, and notices to offerors.
M	Evaluation factors for award.

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 9. Add new section 1452.201–70 to read as follows:

1452.201–70 Authorities and delegations.

As prescribed in section 1401.670–1, insert the following clause:

Authorities and Delegations (SEP 2011)

(a) The Contracting Officer is the only individual authorized to enter into or terminate this contract, modify any term or condition of this contract, waive any requirement of this contract, or accept nonconforming work.

(b) The Contracting Officer will designate a Contracting Officer’s Representative (COR) at time of award. The COR will be responsible for technical monitoring of the contractor’s performance and deliveries. The COR will be appointed in writing, and a copy of the appointment will be furnished to the Contractor. Changes to this delegation will be made by written changes to the existing appointment or by issuance of a new appointment.

(c) The COR is not authorized to perform, formally or informally, any of the following actions:

(1) Promise, award, agree to award, or execute any contract, contract modification, or notice of intent that changes or may change this contract;

(2) Waive or agree to modification of the delivery schedule;

(3) Make any final decision on any contract matter subject to the Disputes Clause;

(4) Terminate, for any reason, the Contractor’s right to proceed;

(5) Obligate in any way, the payment of money by the Government.

(d) The Contractor shall comply with the written or oral direction of the Contracting Officer or authorized representative(s) acting within the scope and authority of the appointment memorandum. The Contractor need not proceed with direction that it considers to have been issued without proper authority. The Contractor shall notify the Contracting Officer in writing, with as much detail as possible, when the COR has taken an action or has issued direction (written or oral) that the Contractor considers to exceed the COR’s appointment, within 3 days of the occurrence. Unless otherwise provided in this contract, the Contractor assumes all costs, risks, liabilities, and consequences of performing any work it is directed to perform that falls within any of the categories defined in paragraph (c) prior to receipt of the Contracting Officer’s response issued under paragraph (e) of this clause.

(e) The Contracting Officer shall respond in writing within 30 days to any notice made under paragraph (d) of this clause. A failure of the parties to agree upon the nature of a direction, or upon the contract action to be taken with respect thereto, shall be subject to the provisions of the Disputes clause of this contract.

(f) The Contractor shall provide copies of all correspondence to the Contracting Officer and the COR.

(g) Any action(s) taken by the Contractor, in response to any direction given by any person acting on behalf of the Government or any Government official other than the Contracting Officer or the COR acting within his or her appointment, shall be at the Contractor’s risk.

(End of clause)

■ 10. In section 1452.228–7, in paragraph (a), remove the reference “1428.311–2” and add in its place “1428.311–1.”

[FR Doc. 2011–20516 Filed 8–11–11; 8:45 am]

BILLING CODE 4310-RF-P