

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 Parts 8, 12, 16, and 52**

Government procurement.

Dated: February 20, 2013.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 8, 12, 16, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 8, 12, 16, and 52 is revised to read as follows:

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

**PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

■ 2. Amend section 8.404 by revising paragraph (h)(3)(iv) to read as follows:

**8.404 Use of Federal Supply Schedules.**

\* \* \* \* \*

- (h) \* \* \*
- (3) \* \* \*

(iv) Prior to an increase in the ceiling price of a time-and-materials or labor-hour order, the ordering activity shall—

(A) Conduct an analysis of pricing and other relevant factors to determine if the action is in the best interest of the Government and document the order file;

(B) Follow the procedures at 8.405–6 for a change that modifies the general scope of the order; and

(C) Comply with the requirements at 8.402(f) when modifying an order to add open market items.

**PART 12—ACQUISITION OF COMMERCIAL ITEMS**

■ 3. Amend section 12.207 by revising paragraph (b)(1)(ii)(C) to read as follows:

**12.207 Contract type.**

\* \* \* \* \*

- (b)(1) \* \* \*
- (ii) \* \* \*

(C) Prior to increasing the ceiling price of a time-and-materials or labor-hour contract or order, shall—

(1) Conduct an analysis of pricing and other relevant factors to determine if the

action is in the best interest of the Government;

(2) Document the decision in the contract or order file; and

(3) When making a change that modifies the general scope of—

(i) A contract, follow the procedures at 6.303;

(ii) An order issued under the Federal Supply Schedules, follow the procedures at 8.405–6; or

(iii) An order issued under multiple award task and delivery order contracts, follow the procedures at 16.505(b)(2).

\* \* \* \* \*

**PART 16—TYPES OF CONTRACTS**

**16.504 [Amended]**

■ 4. Amend section 16.504 by removing from paragraph (a)(4)(v) “(see 16.505(b)(6))” and adding “(see 16.505(b)(8))” in its place.

■ 5. Amend section 16.505 by—

■ a. Removing from paragraph (b)(1)(iv)(E) “paragraph (b)(4)” and adding “paragraph (b)(6)” in its place;

■ b. Redesignating paragraphs (b)(4) through paragraphs (6) as paragraphs (b)(6) through (8), respectively; and

■ c. Adding new paragraphs (b)(4) and (5) to be read as follows:

**16.505 Ordering.**

\* \* \* \* \*

(b) \* \* \*

(4) For additional requirements for cost reimbursement orders see 16.301–3.

(5) For additional requirements for time-and-materials or labor-hour orders, see 16.601(e).

\* \* \* \* \*

■ 6. Amend section 16.601 by—

■ a. Removing from paragraph (c)(2)(i) “(see 16.601(e)(1))” and adding “(see 16.601(f)(1))” in its place;

■ b. Revising the paragraph (d) introductory text and paragraph (d)(2);

■ c. Redesignating paragraph (e) as paragraph (f); and

■ d. Adding a new paragraph (e) to read as follows.

**16.601 Time-and-materials contracts.**

\* \* \* \* \*

(d) *Limitations.* A time-and-materials contract or order may be used only if—

\* \* \* \* \*

(2) The contract or order includes a ceiling price that the contractor exceeds at its own risk. Also see 12.207(b) for further limitations on use of time-and-materials or labor-hour contracts for acquisition of commercial items.

(e) *Post award requirements.* Prior to an increase in the ceiling price of a time-and-materials or labor-hour

contract or order, the contracting officer shall—

(1) Conduct an analysis of pricing and other relevant factors to determine if the action is in the best interest of the Government;

(2) Document the decision in the contract or order file; and

(3) When making a change that modifies the general scope of—

(i) A contract, follow the procedures at 6.303;

(ii) An order issued under the Federal Supply Schedules, follow the procedures at 8.405–6; or

(iii) An order issued under multiple award task and delivery order contracts, follow the procedures at 16.505(b)(2).

\* \* \* \* \*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**52.216–29 [Amended]**

■ 7. Amend section 52.216–29 introductory text by removing from “16.601(e)(1)” and adding “16.601(f)(1)” in its place.

**52.216–30 [Amended]**

■ 8. Amend section 52.216–30 by removing from the “16.601(e)(2)” and adding “16.601(f)(2)” in its place.

**52.216–31 [Amended]**

■ 9. Amend section 52.216–31 introductory text by removing “16.601(e)(3)” and adding “16.601(f)(3)” in its place.

[FR Doc. 2013–04600 Filed 2–27–13; 8:45 am]

BILLING CODE 6820–EP–P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 13**

[FAC 2005–66; FAR Case 2013–007; Item III; Docket 2013–0007, Sequence 1]

RIN 9000–AM47

**Federal Acquisition Regulation; Extension of Authority for Use of Simplified Acquisition Procedures for Certain Commercial Items**

**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 implement section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013. Section 822 extends the authority of the Commercial Item Test Program at FAR subpart 13.5 to January 1, 2015.

**DATES:** *Effective* February 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–66, FAR Case 2013–007.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This final rule amends the FAR to revise section 13.500(d) to implement section 822 of the NDAA for FY 2013, Public Law 112–239. Section 822 of the NDAA for FY 2013 strikes out “2012” in subsection (e) of section 4202 of the Clinger-Cohen Act of 1996 (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) and inserts “2015”. FAR subpart 13.5 authorizes as a test program, the use of simplified procedures for the acquisition of certain commercial items in amounts greater than the simplified acquisition threshold, but not exceeding \$6.5 million (\$12 million for acquisitions described in FAR 13.500(e)) including options, if the contracting officer can reasonably expect that offers will include only commercial items. This final rule extends the sunset date of the authority at FAR 13.500(d) from January 1, 2012, to January 1, 2015.

**II. Decision To Issue a Final Rule**

“Publication of proposed regulations”, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because this case implements section 822 of the NDAA for FY 2013, which merely extends the end date of the Commercial Item Test Program from January 1, 2012, to January 1, 2015.

**III. Executive Order 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. The Office of Information and Regulatory Affairs (OIRA) has deemed that this is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993, and that this rule is not a major rule under 5 U.S.C. 804.

**IV. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not require publication for public comment.

**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 Subject in 48 CFR Part 13**

Government procurement.

Dated: February 20, 2013.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR part 13 as set forth below:

**PART 13—SIMPLIFIED ACQUISITION PROCEDURES**

■ 1. The authority citation for 48 CFR part 13 continues to read as follows:

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

**13.500 [Amended]**

■ 2. Amend section 13.500 by removing from paragraph (d) “January 1, 2012” and adding “January 1, 2015” in its place.

[FR Doc. 2013–04601 Filed 2–27–13; 8:45 am]

**BILLING CODE 6820–EP–P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 5, 7, 10, and 52**

[FAC 2005–66; Item IV; Docket 2013–0080; Sequence 2]

**Federal Acquisition Regulation; Technical Amendments**

**AGENCY:** 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 (FAR) in order to make editorial changes.

**DATES:** *Effective* February 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, 1275 First Street NE., 7th Floor, Washington, DC 20417, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–66, Technical Amendments.

**SUPPLEMENTARY INFORMATION:** In order to update certain elements in 48 CFR parts 5, 7, 10, and 52, this document makes editorial changes to the FAR.

**List of Subject in 48 CFR Parts 5, 7, 10, and 52**

Government procurement.

Dated: February 20, 2013.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 5, 7, 10, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 5, 7, 10, and 52 is revised to read as follows:

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

**PART 5—PUBLICIZING CONTRACT ACTIONS**

**5.601 [Amended]**

■ 2. Amend section 5.601 by removing from paragraphs (a), (b)(1), and (b)(2) “<http://www.contractdirectory.gov/contractdirectory/>” and adding “<https://www.contractdirectory.gov/contractdirectory/>” in its place.