

(7) Acquisitions of commercial products and commercial services using FAR part 12 procedures.

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■ 12. Revise section 215.371–6 to read as follows:

215.371–6 Solicitation provision.

Use the provision at 252.215–7007, Notice of Intent to Resolicit, in competitive solicitations that will be solicited for fewer than 30 days, unless an exception at 215.371–4 applies or the requirement is waived in accordance with 215.371–5.

PART 225—FOREIGN ACQUISITION

■ 13. Amend section 225.1103 by revising paragraph (4) to read as follows:

225.1103 Other provisions and clauses.

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(4) Unless an exception in 225.770–3 applies, use the clause at 252.225–7007, Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, involving the delivery of items covered by the United States Munitions List or the 600 series of the Commerce Control List.

[FR Doc. 2024–26054 Filed 11–14–24; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 215

[Docket DARS–2024–0035]

RIN 0750–AM13

Defense Federal Acquisition Regulation: Past Performance of Affiliate Companies of Small Business Concerns (DFARS Case 2024–D016)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2024 that provides direction to contracting officers evaluating the past performance of small business concerns.

DATES: Effective November 15, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly R. Ziegler, telephone 703–901–3176.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a final rule amending the DFARS to implement section 865 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2024 (Pub. L. 118–31). Section 865 requires DoD contracting officers to consider relevant past performance of affiliate companies of small business concerns during the evaluation of past performance in response to a competitive solicitation.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (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 there is no significant cost or administrative impact on contractors or offerors. When past performance will be evaluated in a source selection, contracting officers already request offerors to submit past performance information. This rule will allow offerors to provide past performance information for an affiliate company within that submission, and the Government would consider those submissions during the existing evaluation process.

III. Applicability to Contracts At or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

This final rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions or contract clauses or their applicability to contracts valued at or below the simplified acquisition threshold, for commercial products including COTS items, or for commercial services.

IV. 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 E.O. 12866, Regulatory Planning and Review, as amended.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules Under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This 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 215

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System amends 48 CFR part 215 as follows:

PART 215—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 215 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise and republish section 215.305 to read as follows:

215.305 Proposal evaluation.

(a)(2) *Past performance evaluation.*
(A) When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219–8, Utilization of Small Business Concerns, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause. When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219–9, Small Business Subcontracting Plan, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause.

(B) Contracting officers shall consider an offeror's failure to make a good faith effort to comply with its comprehensive subcontracting plan under the Test Program described at 219.702–70 as part of the evaluation of the past performance.

(C) When evaluating the past performance of an offeror that is a small business concern in response to a competitive solicitation, contracting officers shall consider relevant past performance information provided for affiliates of the offeror.

[FR Doc. 2024–26055 Filed 11–14–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 225**

[Docket DARS–2024–0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; technical amendment.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to make needed editorial changes.

DATES: Effective November 15, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703–717–8226.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS to make needed editorial changes to add a pointer to new text in DFARS Procedures, Guidance, and Information.

List of Subjects in 48 CFR Part 225

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System amends 48 CFR part 225 as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Add section 225.270 to subpart 225.2 to read as follows:

225.270 Energy savings service contracts.

If construction and construction materials will be used during the performance of a contract for DoD energy savings service requirements, see PGI 225.270 for additional guidance.

[FR Doc. 2024–26053 Filed 11–14–24; 8:45 am]

BILLING CODE 6001–FR–P

GENERAL SERVICES ADMINISTRATION**48 CFR Parts 501, 552, and 570**

[GSAR Case 2020–G512; Docket No. 2024–0010; Sequence No. 1]

RIN 3090–AK22

General Services Administration Acquisition Regulation; SAM Representation for Leases

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

ACTION: Final rule.

SUMMARY: The General Services Administration is issuing this final rule amending the General Services Administration Acquisition Regulation (GSAR) to remove the requirement for lease offerors to have an active System for Award Management registration when submitting offers and instead allow offers up until the time of award to obtain an active registration.

DATES: Effective December 16, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms.

Michaela Mastroianni, Procurement Analyst, or Ms. Amy Lara, Procurement Analyst, at gsarpolicy@gsa.gov or 816–926–7172. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at GSARegSec@gsa.gov or 202–501–4755. Please cite GSAR Case 2020–G512.

SUPPLEMENTARY INFORMATION:**I. Background**

GSA published a proposed rule in the **Federal Register** at 89 FR 21230 on March 27, 2024, to amend the GSAR to create a SAM registration provision specific for the acquisitions of leasehold interests in real property. This provision was prompted by the implementation of FAR Case 2015–005 (see 83 FR 48691), which clarified the timing of registration in the System for Award Management (SAM). Effective October 2018, this FAR case implemented the requirement for an offeror to be registered in SAM prior to the submission of an offer as opposed to the offeror being registered prior to award as was previously followed before the FAR change. While leasing of real property is not subject to the FAR, GSA prescribed FAR clause 52.204–7 in solicitations for the lease of real property. It found this FAR amendment had a significant effect on prospective GSA lessors.

On February 12, 2020, GSA established a GSA specific version of the FAR clause to permit the completion of SAM representation for leases prior to award instead of prior to offer for leasing companies. GSA would therefore only require the apparent awardee to complete the SAM registration. This change will codify this provision in the GSAR.

II. Discussion and Analysis**A. Analysis of Public Comments**

GSA provided the public a 60-day comment period (March 27, 2024, to May 28, 2024). GSA did not receive any comments from the public.

B. Summary of Changes

Two editorial fixes were made:

- GSA corrected the Office of Management and Budget (OMB) Control Number referenced in error in the proposed rule and included the OMB Control Number in GSAR 501.106 for this final rule.
- The prescribed Alternate I (552.270–35) language was erroneously not included in the proposed rule. This language is now included.

III. Expected Impact of the Rule

There were no public comments received that are specific to the