

**DEPARTMENT OF STATE**

**48 CFR Parts 601, 602, 604, 605, 606, 609, 619, 622, 623, 628, 631, 633 and 653**

[Public Notice: 5877]

RIN 1400-AC34

**Department of State Acquisition Regulation; Technical Amendments**

**AGENCY:** State Department.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes editorial corrections and minor changes to the Department of State Acquisition Regulation (DOSAR). No proposed rule was issued as these corrections and changes do not affect the general public; therefore, prior public comment is not required per Federal Acquisition Regulation (FAR) 1.301(b).

**DATES:** *Effective Date:* This rule is effective August 15, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Gladys Gines, Procurement Analyst, Office of the Procurement Executive, 2201 C Street, NW., State Annex Number 6, Room 603, Washington, DC 20522-0602; telephone number: 703-516-1691; e-mail address: [ginesgg@state.gov](mailto:ginesgg@state.gov).

**SUPPLEMENTARY INFORMATION:** This final rule makes the following corrections and updates:

- Removes acquisition of real property from the delegated authority of the Senior Procurement Executive. The FAR does not apply to the acquisition of real property, and the Senior Procurement Executive has no involvement in the acquisition of real property.
- Removes the Bureau of Population, Refugees and Migration from the list of offices that have limited acquisition authority. This office no longer awards any acquisitions.
- Corrects paragraph citations in the DOSAR definition of “major system”.
- Removes the use of the Statebuy Interactive Platform (SIP) as a means of posting solicitations for domestic contracting offices. The SIP has been phased out; contracting officers now only use the Government-wide point of entry (FedBizOpps) for posting solicitations.
- Updates the dollar thresholds for approvals of justifications of other than full and open competition to conform to recent changes in the FAR.
- Removes paragraph (c) of DOSAR 619.201 to conform to FAR 19.201(c), which states that heads of contracting activities are responsible for

implementing the small business programs within their activities. The DOSAR language currently delegates this responsibility to the Assistant Secretary of State for Administration. The Department believes that this responsibility is more appropriately handled by heads of contracting activities as stated in the FAR.

- Removes paragraph (a)(2) of DOSAR 619.805-2. This paragraph discussed a blanket waiver that the Department of State received from the Small Business Administration (SBA) in 2001. The waiver allowed for services exceeding \$3 million and supplies exceeding \$5 million that supplemented the security of U.S. diplomatic posts and protected the lives of Department personnel for the duration of the national state of emergency as declared by the President to be awarded non-competitively under the 8(a) program. A GAO audit (GAO-07-34R, Department of State Contract for Security Installation at Embassies) questioned the waiver. SBA subsequently discovered that they did not have the authority to issue a blanket waiver. As a result, SBA rescinded the waiver. Accordingly, the Department is removing this language from the DOSAR.

- Removes section 623.404 on the agency affirmative action program for recycled materials. The information provided Intranet and Internet Web sites where the Department’s program could be accessed. However, the program is strictly internal guidance for requiring offices, and does not contain any information that would be useful to contractors. Since the document is for internal use only, it is no longer posted on the Internet. It is still posted on the Intranet for requiring offices; however, it is not necessary to state this in the DOSAR.

- Removes references to the General Services Administration Board of Contract Appeals (GSBCA). The Department of State used the GSBCA as its venue for contract appeals since it did not have its own Board of Contract Appeals. However, effective January 6, 2007, all civilian agency Boards of Contract Appeals were terminated and a new Civilian Board of Contract Appeals (CBCA) was created. All civilian agencies now use the CBCA; therefore, no reference to a specific Board is required.

- Removes the reference to the Intranet site where the Department’s forms may be accessed.
- Makes numerous citation and title corrections to conform to the current FAR.
- Updates Web site addresses.

**Regulatory Findings***Administrative Procedure Act*

The Department of State does not consider this rule to be a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

*Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

*Unfunded Mandates Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

*Executive Order 12866*

The Department of State does not consider this rule to be a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed

the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

*Executive Order 12988—Civil Justice Reform*

The Department has reviewed this regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Executive Orders 12372 and 13132—Federalism*

This regulation will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

*National Environmental Policy Act*

The Department has analyzed this regulation for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that it will not have any effect on the quality of the environment.

*Paperwork Reduction Act*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

**List of Subjects in 48 CFR Parts 601, 602, 604, 605, 606, 609, 619, 622, 623, 628, 631, 633 and 653**

Government procurement.

■ Accordingly, for reasons set forth in the preamble, title 48, chapter 6 of the Code of Federal Regulations is amended as follows:

■ 1. The authority citation for 48 CFR parts 601, 602, 604, 605, 606, 609, 619, 622, 623, 628, 631, 633, and 653 continue to read as follows:

**Authority:** 40 U.S.C. 486(c); 22 U.S.C. 2658.

**Subchapter A—General**

**PART 601—DEPARTMENT OF STATE ACQUISITION REGULATIONS SYSTEM**

**601.602–1 [Amended]**

■ 2. Section 601.602–1 is amended by removing the words “real and” in the first sentence in paragraph (b).

■ 3. Section 601.603–1 is revised to read as follows:

**601.603–1 General.**

Details of the Department’s acquisition career management program are described in 14 FAH–3, Acquisition Career Management Program Handbook, which is available on the Internet at <http://foia.state.gov/REGS/search.asp>.

**601.603–70 [Amended]**

■ 4. Section 601.603–70 is amended—

- a. By removing paragraph (b)(5); and
- b. By redesignating paragraphs (b)(6), (b)(7), and (b)(8) as (b)(5), (b)(6), and (b)(7), respectively.

**PART 602—DEFINITIONS OF WORDS AND TERMS**

**602.101–70 [Amended]**

■ 5. Section 602.101–70 is amended, in the definition of “major system”, by removing “(b)” and adding in its place “(2)” in the first sentence, and removing “(c)” and adding in its place “(3)” in the second sentence.

**PART 604—ADMINISTRATIVE MATTERS**

**604.502 [Amended]**

■ 6. Section 604.502 is amended —

- a. By removing paragraph (b)(1)(i) in its entirety;
- b. By redesignating paragraphs (b)(1)(ii) and (b)(1)(iii) as (b)(1)(i) and (b)(1)(ii), respectively; and
- c. By removing the words “Statebuy Interactive Platform” and adding the words “Government-wide point of entry” in their place in the first sentence of newly designated paragraph (b)(1)(ii).

**Subchapter B—Competition and Acquisition Planning**

**PART 605—PUBLICIZING CONTRACT ACTIONS**

**605.403 [Amended]**

■ 7. Section 605.403 is amended —

- a. By removing the paragraph designator “(a)” at the beginning; and
- b. By removing “FAR 5.403(a)” and adding in its place “FAR 5.403.”

**PART 606—COMPETITION REQUIREMENTS**

**606.302–6 [Amended]**

■ 8. Section 606.302–6 is amended by removing the words “The Chief, Information Security Programs Division, Office of Information Security Technology, Bureau of Diplomatic Security” and adding the words “The Office Director, Office of Information Security, Office of Security Infrastructure, Bureau of Diplomatic Security (DS/SI/IS)” in their place in the second sentence of paragraph (c)(1).

**606.304 [Amended]**

■ 9. Section 606.304 is amended by removing “\$500,000” and “\$10,000,000” and adding “\$550,000” and “\$11.5 million” in their place, respectively, in paragraph (a)(2).

**PART 609—CONTRACTOR QUALIFICATIONS**

■ 10. Section 609.404 is amended:

- a. By revising the section heading to read as set forth below.
- b. By removing the words “FAR 9.404(c)(5)” and adding in its place “FAR 9.404(c)(7) in the second sentence.

**609.404 Excluded parties list system.**

\* \* \* \* \*

■ 11. Section 609.404–70 is amended by removing “<http://epls.arnet.gov>” and adding in its place “<http://www.epls.gov>” at the end of the second sentence.

**Subchapter C—Contracting Methods and Contracting Types**

**PART 613—SIMPLIFIED ACQUISITION PROCEDURES**

12. A new Subpart 613.2 is added to read as follows:

**Subpart 613.2—Actions At or Below the Micro-Purchase Threshold**

**613.201 General.**

(g)(1) The procurement Executive is the agency head’s designee for the purpose of FAR 13.201(g)(1).

**Subchapter D—Socioeconomic Programs**

**PART 619—SMALL BUSINESS PROGRAMS**

**619.201 [Amended]**

■ 13. Section 619.201 is amended by removing paragraph (c).

**619.805–2 [Amended]**

■ 14. Section 619.805–2 is amended—

- a. By removing paragraph (a)(2); and

■ b. By redesignating paragraph (c)(3) as paragraph (b).

**619.810 [Amended]**

- 15. Section 619.810 is amended—
- a. By redesignating paragraph (d) as paragraph (c); and
- b. By removing “FAR 19.812(d)” and adding in its place “FAR 19.810(c)” at the end of newly designated paragraph (c).

**619.811–3 [Amended]**

- 16. Section 619.811–3 is amended—
- a. By redesignating paragraph (d)(3) as paragraph (d); and
- b. By redesignating paragraph (f) as paragraph (e).

**PART 622—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

**622.404–3 [Amended]**

- 17. Section 622.404–3 is amended by removing “FAR 22.404–3(b) and (e)” and adding in its place “22.404–3(b) and (d)”.

**622.13.10 [Amended]**

- 18. Section 622.1310 is amended by revising the heading to read as follows:

**622.1310 Solicitation Provision and Contract Clauses.**

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**PART 623—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

**623.404 [Removed]**

- 19. Section 623.404 is removed.

**Subchapter E—General Contracting Requirements**

**PART 628—BONDS AND INSURANCE**

- 20. The heading for Subpart 628.2 is revised to read as follows:

**Subpart 628.2—Sureties and Other Securities for Bonds**

**PART 631—CONTRACT COST PRINCIPLES AND PROCEDURES**

**631.205–6 [Amended]**

- 21. Section 631.205–6 is amended by removing “FAR 31.205–6(g)(3)” and adding in its place “FAR 31.205–6(g)(6)”.

**PART 633—PROTESTS, DISPUTES, AND APPEALS**

**633.102 [Amended]**

- 22. Section 633.102 is amended by removing the words “General Accounting Office” and adding the words “Government Accountability Office” in their place.

**633.270–1, 633.270–2 and 633.270–3 [Removed]**

- 23. Sections 633.270–1, 633.270–2, and 633.270–3 are removed.

**Subchapter H—Clauses and Forms**

**PART 653—FORMS**

**653.101–70 [Amended]**

- 24. Section 653.101–70 is amended by removing the last sentence.

Dated: July 30, 2007.

**Corey M. Rindner,**

*Procurement Executive, Bureau of Administration, Department of State.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 060418103–6181–02]**

**RIN 0648–XB95**

**Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 1 Quota Harvested**

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

**ACTION:** Closure of spiny dogfish fishery.

**SUMMARY:** NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the semi-annual quota period, May 1, 2007 - October 31, 2007, has been harvested. Therefore, effective 0001 hours, August 14, 2007, federally permitted commercial vessels may not fish for, possess, transfer, or land spiny dogfish until November 1, 2007, when the Period 2 quota becomes available. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit

holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary to prevent the fishery from exceeding its Period 1 quota and to allow for effective management of this stock.

**DATES:** Quota Period 1 for the spiny dogfish fishery is closed effective at 0001 hr local time, August 14, 2007, through 2400 hr local time October 31, 2007. Effective August 14, 2007, federally permitted dealers are also advised that they may not purchase spiny dogfish from federally permitted spiny dogfish vessels.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fisheries Management Specialist, at (978) 281–9221, or *Don.Frei@Noaa.gov*.

**SUPPLEMENTARY INFORMATION:** Regulations governing the spiny dogfish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The commercial quota is distributed to the coastal states from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2007 fishing year is 4 million lb (1.81 million kg) (71 FR 40436, July 17, 2006). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are intended to preclude directed fishing, and they are set at 600 lb (272 kg) for both quota Periods 1 and 2. Quota period 1 is allocated 2.3 million lb (1.05 million kg), and quota Period 2 is allocated 1.7 million lb (763,849 kg) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to quota Period 1 have the effect of reducing the quota available to the fishery during quota Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be 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 Federal spiny dogfish commercial quota has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.