

triggered in the first instance by MSS/ATC licensees are defined as follows:

(1) The mandatory negotiation period for non-public safety incumbents will end December 8, 2004.

(2) The mandatory negotiation period for public safety incumbents will end December 8, 2005.

(f) AWS licensees operating in the 1915–1920 MHz band will follow the requirements and procedures set forth in ET Docket No. 00–258 and WT Docket No. 04–356.

(g) If no agreement is reached during the mandatory negotiation period, an ET licensee may initiate involuntary relocation procedures. Under involuntary relocation, the incumbent is required to relocate, provided that the ET licensee meets the conditions of § 101.75.

22. Section 101.79 is amended by revising paragraph (a) to read as follows:

§ 101.79 Sunset provisions for licensees in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands.

(a) FMS licensees will maintain primary status in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands unless and until an ET licensee (including MSS/ATC operator) requires use of the spectrum. ET licensees are not required to pay relocation costs after the relocation rules sunset. Once the relocation rules sunset, an ET licensee may require the incumbent to cease operations, provided that the ET licensee intends to turn on a system within interference range of the incumbent, as determined by TIA TSB 10–F (for terrestrial-to-terrestrial situations) or TIA TSB 86 (for MSS satellite-to-terrestrial situations) or any standard successor. ET licensee notification to the affected FMS licensee must be in writing and must provide the incumbent with no less than six months to vacate the spectrum. After the six-month notice period has expired, the FMS licensee must turn its license back into the Commission, unless the parties have entered into an agreement which allows the FMS licensee to continue to operate on a mutually agreed upon basis. The date that the relocation rules sunset is determined as follows:

(1) For the 2110–2150 MHz and 2160–2180 MHz bands, ten years after the first ET license is issued in the respective band; and

(2) For the 2180–2200 MHz band, December 8, 2013 (*i.e.*, ten years after the mandatory negotiation period begins for MSS/ATC operators in the service).

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[FR Doc. E8–14423 Filed 6–24–08; 8:45 am]

BILLING CODE 6712–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 509 and 552

[GSAR Case 2006–G512; Docket 2008–0007; Sequence 9]

RIN 3090–AI57

General Services Acquisition Regulation; GSAR Case 2006–G512; Rewrite of GSAR Part 509, Contractor Qualifications

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Proposed rule with request for comments.

SUMMARY: The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to update language addressing contractor qualifications. This rule is a result of the General Services Administration Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR, and to implement streamlined and innovative acquisition procedures that contractors, offerors and GSA contracting personnel can utilize when entering into and administering contractual relationships. The GSAM incorporates the General Services Administration Acquisition Regulation (GSAR) as well as internal agency acquisition policy.

GSA will rewrite each part of the GSAR and GSAM, and as each GSAR part is rewritten, will publish it in the **Federal Register**.

This is one of a series of revisions. It covers the rewrite of GSAR Part 509, Contractor Qualifications.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before August 25, 2008 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by GSAR Case 2006–G512 by any of the following methods:

• Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “GSAR Case 2006–G512” under the heading “Comment or Submission”. Select the link “Send a Comment or Submission” that corresponds with GSAR Case 2006–G512. Follow the instructions provided to complete the “Public Comment and Submission Form”. Please include your name, company name (if any), and “GSAR Case 2006–G512” on your attached document.

• Fax: 202–501–4067.

• Mail: General Services

Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite GSAR Case 2006–G512 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Procurement Analyst, at (202) 208–6925, or by e-mail at meredith.murphy@gsa.gov for clarification of content. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite GSAR Case 2006–G512.

SUPPLEMENTARY INFORMATION:

A. Background

The GSAR Rewrite Project

On February 15, 2006, GSA published an Advance Notice of Proposed Rulemaking (ANPR) with request for comments because GSA is beginning the review and update of the General Services Administration Acquisition Regulation (GSAR).

The GSAR rewrite will—

• Consider comments received from the ANPR, published in the **Federal Register** at 71 FR 7910, February 15, 2006.

• Change “you” to “contracting officer.”

• Maintain consistency with the FAR but eliminate duplication.

• Revise GSAR sections that are out of date, or impose inappropriate burdens on the Government or contractors, especially small businesses.

• Streamline and simplify.

In addition, GSA has recently reorganized into two, rather than three services. Therefore, the reorganization of the Federal Supply Service (FSS) and the Federal Technology Service (FTS) into the Federal Acquisition Service (FAS) will be considered in the rewrite initiative.

The Rewrite of Part 509

This proposed rule contains the revisions made to Part 509, Contractor Qualifications. There are no major substantive changes to the policies. GSA Form 353, Performance Evaluation and Facilities Report, is proposed for deletion so that FAR forms would be used instead. Subsection 509.405–1(b) and clauses 552.209–70 through

552.209–73 are proposed for deletion as unnecessary. The explanation of “auditor” in 509.105–1 is removed as unnecessary - it is partly duplicative (credit and finance) and too restrictive (does not allow use of DCAA). Subsection 509.406–3(b)(7) is deleted as duplicative of 509.406–3(b)(5). The debarment legal authorities in 509.401 are updated. The term “Suspension and Debarment Official” is used throughout the Part.

Discussion of Comments

As a result of the ANPR, GSA received two comments pertaining to GSAR Part 509.

One commenter suggested revising the Assignment of Claims clause, GSAR 552.232–23, to facilitate contractor teaming arrangements. The proposed revision applies to GSAM Part 532, not Part 509; it has therefore been referred to the Part 532 Rewrite Team, which has not yet begun work. Any changes proposed to the Assignment of Claims clause by the Part 532 Rewrite Team will, of course, be published for public comment. The other commenter suggested GSA consider placing guidance on teaming arrangements that is on GSA’s website in the GSAR. There is no guidance on teaming arrangements on a GSA-wide website. One purchasing office within GSA does have such guidance on a website, but that guidance is unique to Federal Supply Schedules. Therefore, the team that is revising GSAM Part 508, Required Sources of Supplies and Services, will incorporate the regulatory and procedural material on Schedules teaming arrangements in GSAM Part 508, ensure that it is published for public comment, and oversee the removal of the regulatory and procedural teaming arrangement material from the Federal Acquisition Service (FAS) website.

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 General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the only substantive change is a minor one, deleting a GSA-unique form in favor of using the FAR forms. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from

small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Parts 509 and 552 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.* (GSAR case 2006–G512), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 3090–0007.

List of Subjects in 48 CFR Parts 509 and 552

Government procurement.

Dated: June 12, 2008.

Al Matera,

Director, Office of Acquisition Policy, General Services Administration.

Therefore, GSA proposes to amend 48 CFR parts 509 and 552 as set forth below:

1. The authority citation for 48 CFR parts 509 and 552 is revised to read as follows:

Authority: 40 U.S.C. 121(c).

PART 509—CONTRACTOR QUALIFICATIONS

2. Revise section 509.105 to read as follows:

509.105 Procedures.

509.105–1 Obtaining information.

(a) *From a prospective contractor.* FAR 9.105–1 lists a number of sources of information that a contracting officer may utilize before making a determination of responsibility. The contracting officer may request information directly from a prospective contractor using GSA Form 527, Contractor’s Qualifications and Financial Information, but only after exhausting other available sources of information.

(b) *From Government personnel.* The contracting officer may solicit and consider information from any appropriate activities, *e.g.*, legal counsel, quality control, contract management, credit and finance, and auditors before determining that an offeror is responsible.

509.105–2 Determinations and documentation.

(a) The contracting officer shall provide written notification to a prospective contractor determined not responsible. Include the basis for the

determination. Notification provides the prospective contractor with the opportunity to correct any problem for future solicitations.

(b) Due to the potential for de facto debarment, the contracting officer shall avoid making repeated determinations of nonresponsibility based on the same past performance information.

(c) To provide for timely consideration of the need to institute action to debar a contractor, the contracting officer shall submit a copy of each nonresponsibility determination, other than those based on capacity or financial capability, to the Suspension and Debarment Official in the Office of the Chief Acquisition Officer.

509.106 [Removed]

3. Section 509.106 is removed.

Subpart 509.2 [Removed]

4. Subpart 509.2 is removed.

5. Revise section 509.306 to read as follows:

509.306 Solicitation requirements.

The clauses at FAR 52.209–3 and 52.209–4 do not cover all the solicitation requirements described in FAR 9.306. If a solicitation contains a testing and approval requirement, the contracting officer must address the requirements in FAR 9.306(d) and (f) through (j) in the solicitation’s Section H, special contract requirements.

509.308 [Removed]

6. Section 509.308 is removed.

7. Revise section 509.401 to read as follows:

509.401 Applicability.

This subpart applies to all the following:

(a) Acquisitions of personal property, nonpersonal services, construction, and space in buildings.

(b) Acquisition of transportation services (Federal Management Regulation (FMR) Parts 102–117 and 102–118 (41 CFR Parts 102–117 and 102–118)).

(c) Contracts for disposal of personal property (FMR Parts 102–36 through 102–38 (41 CFR Parts 102–36 through 102–38)).

(d) Covered transactions as defined by 41 CFR Part 105–68.

8. Amend section 509.403 by adding, in alphabetical order, the definitions “Debarred official” and “Suspending official”; and, in the definition “Fact-finding official” by removing the word “GSA” and adding the word “Civilian” in its place. The added text reads as follows:

509.403 Definitions.

Debarring official means the Suspension and Debarment Official within the Office of the Chief Acquisition Officer.

* * * * *

Suspending official means the Suspension and Debarment Official within the Office of the Chief Acquisition Officer.

9. Revise section 509.405 to read as follows:

509.405 Effect of listing.**509.405-1 Continuation of current contracts.**

(a) When a contractor appears on the current EPLS, consider terminating a contract under any of the following circumstances:

(1) Any circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of the contract.

(2) The contractor presents a significant risk to the Government in completing the contract.

(3) The conduct that provides the cause of the suspension, proposed debarment, or debarment involved a GSA contract.

(b) Before terminating a contract when a contractor appears on the current EPLS, consider the following factors:

(1) Seriousness of the cause for debarment or suspension.

(2) Extent of contract performance.

(3) Potential costs of termination and procurement.

(4) Need for or urgency of the requirement, contract coverage, and the impact of delay for procurement.

(5) Availability of other safeguards to protect the Government's interest until completion of the contract.

(6) Availability of alternate competitive sources to meet the requirement (e.g., other multiple award contracts, readily available commercial items).

(c) The responsibilities of the agency head under FAR 9.405-1 are delegated to the GSA Suspension and Debarment Official.

509.405-2 Restrictions on subcontracting.

The responsibilities of the agency head under FAR 9.405-2(a) are delegated to the GSA Suspension and Debarment Official.

10. Revise section 509.406-1 to read as follows:

509.406-1 General.

The Suspension and Debarment Official is the designee under FAR 9.406-1(c).

11. Amend section 509.406-3 by—

a. Removing from paragraphs (a) and (b), the words “debarment official” and adding the words “Suspension and Debarment Official” in its place each time it appears;

b. Removing from paragraph (b)(2), the word “Number” and adding the word “Numbers” in its place;

c. Removing paragraph (b)(7);

d. Revising paragraph (c); and

e. Removing from paragraph (d), the words “debarment official” and adding the words “Suspension and Debarment Official” in its place each time it appears.

The revised text reads as follows:

509.406-3 Procedures.

* * * * *

(c) *Review.* The Suspension and Debarment Official will review the report, and after coordinating with assigned legal counsel—

(1) Initiate debarment action;

(2) Decline debarment action;

(3) Request additional information; or

(4) Refer the matter to the OIG for further investigation and development of a case file.

* * * * *

509.407-1 [Amended]

12. Amend section 509.407-1 by removing the words “suspending official” and adding “Suspension and Debarment Official” in its place.

509.407-3 [Amended]

13. Amend section 509.407-3 by removing the words “suspending official” and adding “Suspension and Debarment Official” in its place each time it appears.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**552.209-70 through 552.209-73**

[Removed]

14. Sections 552.209-70 through 552.209-73 are removed.

[FR Doc. E8-14392 Filed 6-24-08; 8:45 am]

BILLING CODE 6820-61-S

DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials Safety Administration****49 CFR Part 192**

[Docket No. PHMSA-RSPA-2004-19854]

RIN 2137-AE15

Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration

(PHMSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: PHMSA proposes to amend the Federal Pipeline Safety Regulations to require operators of gas distribution pipelines to develop and implement integrity management (IM) programs. The purpose of these programs is to enhance safety by identifying and reducing pipeline integrity risks. The IM programs required by the proposed rule would be similar to those currently required for gas transmission pipelines, but tailored to reflect the differences in and among distribution systems. In accordance with Federal law, the proposed rule would require operators to install excess flow valves on certain new and replaced residential service lines, subject to feasibility criteria outlined in the rule. Based on the required risk assessments and enhanced controls, the proposed rule also would establish procedures and standards permitting risk-based adjustment of prescribed intervals for leak detection surveys and other fixed-interval requirements in the agency's existing regulations for gas distribution pipelines. To further minimize regulatory burdens, the proposed rule would establish simpler requirements for master meter and liquefied petroleum gas (LPG) operators, reflecting the relatively lower risk of these small pipeline systems.

This proposal also addresses statutory mandates and recommendations from the DOT's Office of the Inspector General (OIG) and stakeholder groups.

DATES: Anyone may submit written comments on proposed regulatory changes by September 23, 2008. PHMSA will consider late-filed comments to the extent possible.

ADDRESSES: Comments should reference Docket No. PHMSA-RSPA-2004-19854 and may be submitted in the following ways:

- *E-Gov Web Site:* <http://www.regulations.gov>. This site allows the public to enter comments on any Federal Register notice issued by any agency.

- *Fax:* 1-202-493-2251.
- *Mail:* DOT Docket Operations Facility (M-30), U.S. Department of Transportation, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* DOT Docket Operations Facility, U.S. Department of Transportation, West Building, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.