

Dated: December 22, 2010.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: December 22, 2010.

Joseph A. Neurauter,

Deputy Associate Administrator and Senior Procurement Executive, Office of General Services Acquisition Policy, Integrity, and Workforce, U.S. General Services Administration.

Dated: December 21, 2010.

Sheryl J. Goddard,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 12, 19, 22, 52, and 53

[FAC 2005-48; FAR Case 2011-005; Item I; Docket 2010-0112, Sequence 1]

RIN 9000-AL87

Federal Acquisition Regulation; Repeal of the Small Business Competitiveness Demonstration Program

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 remove FAR coverage of the Small Business Competitiveness Demonstration Program, to meet the requirements of section 1335 of the Small Business Jobs Act of 2010.

DATES: *Effective Date:* January 31, 2011.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-48, FAR Case 2011-005.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the FAR to delete subpart 19.10 to meet the requirements of section 1335 of the Small Business Jobs Act of 2010 (Pub.

L. 111-240), referred to as the Act. Section 1335 of the Act amended the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) by striking Title VII (15 U.S.C. 644 note), the Small Business Competitiveness Demonstration Program. In accordance with the Act, the repeal of the Small Business Competitiveness Demonstration Program became immediately effective upon the enactment of the Act and it will apply to the first full fiscal year after the September 27, 2010, date of enactment. This change will remove the policy, procedures, provisions, clauses, and the information collection and recordkeeping requirements associated with the Small Business Competitiveness Demonstration Program, and will update forms deleting any references to the program.

II. Executive Order 12866

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.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-3(a) and 41 U.S.C. 418b, and publication for public comments is not required.

IV. Paperwork Reduction Act

The final rule removes the information collection requirements associated with the Small Business Competitiveness Demonstration Program under OMB Clearance 9000-0100, and does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35.

List of Subjects in 48 CFR Parts 1, 4, 12, 19, 22, 52, and 53

Government procurement.

Dated: December 22, 2010.

Millisa Gary,

Acting Director, Federal Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 4, 12, 19, 22, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 12, 19, 22, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory paragraph, by removing FAR segments 52.219-19, 52.219-20, and 52.219-21, and their corresponding OMB Control Number 9000-0100.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.603 by revising paragraph (b) to read as follows:

4.603 Policy.

* * * * *

(b) Executive agencies shall use FPDS to maintain publicly available information about all contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.

* * * * *

4.606 [Amended]

■ 4. Amend section 4.606 by removing paragraph (a)(2); and redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively.

4.1202 [Amended]

■ 5. Amend section 4.1202 by removing paragraphs (k) and (l); and redesignating paragraphs (m) through (ee) as paragraphs (k) through (cc), respectively.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.303 [Amended]

■ 6. Amend section 12.303 by removing from the end of paragraph (b)(1) “, or if set aside for emerging small businesses”.

12.603 [Amended]

■ 7. Amend section 12.603 by removing the second sentence of paragraph (c)(2)(iv).

PART 19—SMALL BUSINESS PROGRAMS

19.304 [Amended]

■ 8. Amend section 19.304 by removing from the first sentence in the introductory text in paragraph (c) “52.212-3(c)(9)” and adding “52.212-3(c)(8)” in its place.

■ 9. Amend section 19.502-2 by revising the last sentence in paragraph (a); and by removing paragraph (d).

The revised text reads as follows:

19.502–2 Total small business set-asides.

(a) * * * The small business reservation does not preclude the award of a contract with a value not greater than \$150,000 under subpart 19.8, Contracting with the Small Business Administration, or under 19.1305, HUBZone set-aside procedures.

* * * * *

Subpart 19.10—[Removed and Reserved]

- 10. Remove and reserve subpart 19.10.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**22.1006 [Amended]**

- 11. Amend section 22.1006 by—
 - a. Removing from paragraph (a)(2)(i)(C) “52.204–8(c)(2)(v) or (vi)” and adding “52.204–8(c)(2)(iii) or (iv)” in its place;
 - b. Removing from paragraph (e)(2)(i) “52.204–8(c)(2)(v)” and adding “52.204–8(c)(2)(iii)” in its place; and
 - c. Removing from paragraph (e)(4)(i) “52.204–8(c)(2)(vi)” and adding “52.204–8(c)(2)(iv)” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**52.204–8 [Amended]**

- 12. Amend section 52.204–8 by—
 - a. Removing from the date of the provision “Oct 2010” and adding “(JAN 2011)” in its place;
 - b. Removing paragraphs (c)(2)(i) and (c)(2)(ii); and
 - c. Redesignating paragraphs (c)(2)(iii) through (c)(2)(x) as paragraphs (c)(2)(i) through (c)(2)(viii), respectively.

52.212–3 [Amended]

- 13. Amend section 52.212–3 by—
 - a. Removing from the date of the provision “Oct 2010” and adding “(JAN 2011)” in its place;
 - b. Removing from paragraph (a), the definition “Emerging small business”;
 - c. Removing paragraph (c)(8); and
 - d. Redesignating paragraphs (c)(9) and (c)(10) as paragraphs (c)(8) and (c)(9), respectively.

52.219–19 through 52.219–21 [Removed and Reserved]

- 14. Remove and reserve sections 52.219–19 through 52.219–21.

PART 53—FORMS**53.212 [Amended]**

- 15. Amend section 53.212 by removing “SF 1449, (Rev. 3/2005)” and adding “SF 1449, (Rev. 10/2010)” in its place.

53.213 [Amended]

- 16. Amend section 53.213 by removing from paragraphs (a) and (f) “SF 1449, (Rev. 3/2005)” and adding “SF 1449, (Rev. 10/2010)”, respectively, in its place; and by removing from paragraph (f) “OF 347 (Rev. 4/06)” and adding “OF 347, (Rev. 10/2010)” in its place.

53.214 [Amended]

- 17. Amend section 53.214 by removing from paragraph (d) “SF 1447 (APR 2008)” and adding “SF 1447 (Rev. 11/2010)” in its place.

53.236–1 [Amended]

- 18. Amend section 53.236–1 by removing from paragraph (e) “OF 347 (Rev. 03/2005)” and adding “OF 347, (Rev. 10/2010)” in its place.
- 19. Amend section 53.301–1447 by revising the form to read as follows:

53.301–1447 Solicitation/Contract.

BILLING CODE 6820-EP-P

SOLICITATION/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	RATING	PAGE OF
BIDDER/OFFEROR TO COMPLETE BLOCKS 11, 13, 15, 21, 22, & 27				

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. SOLICITATION NUMBER	5. SOLICITATION TYPE <input type="checkbox"/> SEALED BIDS (IFB) <input type="checkbox"/> NEGOTIATED (RFP)	6. SOLICITATION ISSUE DATE
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7. ISSUED BY CODE	8. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <div style="margin-left: 20px;"> <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) </div> NAICS: SIZE STANDARD: NO COLLECT CALLS
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9. (AGENCY USE)

10. ITEMS TO BE PURCHASED (BRIEF DESCRIPTION)
 SUPPLIES SERVICES

11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS (60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD) FROM THE DATE SET FORTH IN BLOCK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM FOR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN.	12. ADMINISTERED BY _____ CODE
---	--------------------------------

13. CONTRACTOR OFFEROR CODE FACILITY CODE	14. PAYMENT WILL BE MADE BY _____ CODE
---	--

TELEPHONE NUMBER _____ DUNS NUMBER _____

CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK:

15. PROMPT PAYMENT DISCOUNT	16. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304 <input type="checkbox"/> 41 U.S.C. 253
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17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES	19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA	24. TOTAL AWARD AMOUNT (FOR GOVERNMENT USE ONLY)
---------------------------------------	--

25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.	26. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: <input type="checkbox"/>
---	--

27. SIGNATURE OF OFFEROR/CONTRACTOR	28. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)
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NAME AND TITLE OF SIGNER (TYPE OR PRINT)	DATE SIGNED	NAME OF CONTRACTING OFFICER	DATE SIGNED
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AUTHORIZED FOR LOCAL REPRODUCTION
 PREVIOUS EDITION NOT USABLE

STANDARD FORM 1447 (REV. 11/2010)
 Prescribed by GSA - FAR (48 CFR) 53.214(d)

NO RESPONSE FOR REASONS CHECKED			
	CANNOT COMPLY WITH SPECIFICATIONS		CANNOT MEET DELIVERY REQUIREMENT
	UNABLE TO IDENTIFY THE ITEM(S)		DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
OTHER (Specify)			
	WE DO	WE DO NOT, DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEMS INVOLVED	
NAME AND ADDRESS OF FIRM (Include Zip Code)		SIGNATURE	
		TYPE OR PRINT NAME AND TITLE OF SIGNER	
FROM:		AFFIX STAMP HERE	
TO:			
SOLICITATION NO. _____			
DATE AND LOCAL TIME _____			

STANDARD FORM 1447 (REV. 11/2010) BACK

■ 20. Amend section 53.301-1449 by revising the form to read as follows:

53.301-1449 Solicitation/Contract/Order for Commercial Items.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER	PAGE 1 OF
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME	b. TELEPHONE NUMBER (No collect calls)	8. OFFER DUE DATE/ LOCAL TIME	
9. ISSUED BY		CODE	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR: NAICS: <input type="checkbox"/> SMALL BUSINESS SIZE STANDARD: <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8 (A)		
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS		<input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	13b. RATING	
15. DELIVER TO		CODE	16. ADMINISTERED BY		
17a. CONTRACTOR/OFFEROR		CODE	18a. PAYMENT WILL BE MADE BY		CODE
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE
					24. AMOUNT
<i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>					
25. ACCOUNTING AND APPROPRIATION DATA			26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA		<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA		<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			
<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED			<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____, YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		
30b. NAME AND TITLE OF SIGNER (Type or print)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (Type or print)		31c. DATE SIGNED

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN
 RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
--	--------------------	---------------------------------	--	------------------

38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY
---------------------	------------------------	-------------

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42a. RECEIVED BY (<i>Print</i>)	
		42b. RECEIVED AT (<i>Location</i>)	
	42c. DATE REC'D (<i>YYMM/DD</i>)	42d. TOTAL CONTAINERS	

STANDARD FORM 1449 (REV. 10/2010) BACK

■ 21. Amend section 53.302–347 by revising the form to read as follows:

53.302–347 Order for Supplies or Services.

ORDER FOR SUPPLIES OR SERVICES						PAGE	OF	PAGES	
IMPORTANT: Mark all packages and papers with contract and/or order numbers.									
1. DATE OF ORDER		2. CONTRACT NO. (If any)		6. SHIP TO:					
3. ORDER NO.		4. REQUISITION/REFERENCE NO.		a. NAME OF CONSIGNEE					
5. ISSUING OFFICE (Address correspondence to)		b. STREET ADDRESS							
7. TO:		c. CITY			d. STATE		e. ZIP CODE		
a. NAME OF CONTRACTOR		f. SHIP VIA							
b. COMPANY NAME		8. TYPE OF ORDER							
c. STREET ADDRESS		<input type="checkbox"/> a. PURCHASE REFERENCE YOUR: _____ Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheet, if any, including delivery as indicated.			<input type="checkbox"/> b. DELIVERY -- Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.				
d. CITY		e. STATE	f. ZIP CODE		10. REQUISITIONING OFFICE				
9. ACCOUNTING AND APPROPRIATION DATA				11. BUSINESS CLASSIFICATION (Check appropriate box(es))					12. F.O.B. POINT
<input type="checkbox"/> a. SMALL		<input type="checkbox"/> b. OTHER THAN SMALL		<input type="checkbox"/> c. DISADVANTAGED					
<input type="checkbox"/> d. WOMEN-OWNED		<input type="checkbox"/> e. HUBZone		<input type="checkbox"/> f. SERVICE-DISABLED VETERAN-OWNED					
13. PLACE OF		14. GOVERNMENT B/L NO.		15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)		16. DISCOUNT TERMS			
a. INSPECTION	b. ACCEPTANCE								
17. SCHEDULE (See reverse for Rejections)									
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)			
SEE BILLING INSTRUCTIONS ON REVERSE		18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT		20. INVOICE NO.		17(h) TOT. (Cont. pages)	
		21. MAIL INVOICE TO:							
		a. NAME							
		b. STREET ADDRESS (or P.O. Box)							
		c. CITY		d. STATE	e. ZIP CODE	\$	17(i) GRAND TOTAL		
22. UNITED STATES OF AMERICA BY (Signature)				23. NAME (Typed)					
				TITLE: CONTRACTING/ORDERING OFFICER					

