solicitations, identify a supplementary PIID, in conjunction with the PIID for the solicitation.

(2) *Contracts and purchase orders.* Identify the PIID for contracts and purchase orders.

(3) *Delivery and task orders.* For delivery and task orders placed by an agency under a contract (*e.g.,* indefinite delivery indefinite quantity (IDIQ) contracts, multi-agency contracts (MAC), Governmentwide acquisition contracts (GWACs), or Multiple Award Schedule (MAS) contracts), identify the PIID for the delivery and task order and the PIID for the contract.

(4) *Blanket purchase agreements and basic ordering agreements.* Identify the PIID for blanket purchase agreements issued in accordance with 13.303, and for basic agreements and basic ordering agreements issued in accordance with subpart 16.7. For blanket purchase agreements issued in accordance with subpart 8.4 under a MAS contract, identify the PIID for the blanket purchase agreement and the PIID for the MAS contract.

(i) *Orders.* For orders against basic ordering agreements or blanket purchase agreements issued in accordance with 13.303, identify the PIID for the order and the PIID for the blanket purchase agreement or basic ordering agreement.

(ii) *Orders under subpart 8.4.* For orders against a blanket purchase agreement established under a MAS contract, identify the PIID for the order, the PIID for the blanket purchase agreement, and the PIID for the MAS contract.

(5) *Modifications.* For modifications to actions described in paragraphs (a)(2) through (4) of this section, and in accordance with agency procedures, identify a supplementary PIID for the modification in conjunction with the PIID for the contract, order, or agreement being modified.

(b) *Placement of the PIID on forms.* When the form (including electronic generated format) does not provide spaces or fields for the PIID or supplementary PIID required in paragraph (a) of this section, identify the PIID in accordance with agency procedures.

(c) *Additional agency specific identification information.* If agency procedures require additional identification information in solicitations, contracts, or other related procurement instruments for administrative purposes, identify it in such a manner so as to separate it clearly from the PIID.

[FR Doc. 2011–16673 Filed 7–1–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9 and 52

[FAC 2005–53; FAR Case 2009–036; Item III; Docket 2010–0109, Sequence 1]

RIN 9000–AL75

Federal Acquisition Regulation; Uniform Suspension and Debarment Requirement

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, the interim rule amending the Federal Acquisition Regulation (FAR) to implement section 815 of the National Defense Authorization Act for Fiscal Year 2010. Section 815 extends the flow down of limitations on subcontracting with entities that have been debarred, suspended, or proposed for debarment.

DATES: *Effective Date:* August 4, 2011.

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 2005–53, FAR Case 2009–036.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 77739 on December 13, 2010, to implement section 815 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84). Section 815 amends section 2455(c)(1) of the Federal Acquisition Streamlining Act of 1994 (FASA) (31 U.S.C. 6101 note) by amending the definition of ''procurement activities'' to include subcontracts at any tier, except—

- It does not include subcontracts for commercially available off-the-shelf items (COTS); and
- In the case of commercial items, such term includes only the first-tier subcontracts.

This has the effect, except for commercial items and COTS items, of expanding the requirement of section 2455(a), which states that ''No agency shall allow a party to participate in any procurement * * * activity if any agency has debarred, suspended, or otherwise excluded * * * that party from participation in a procurement * * * activity.''

Therefore, the interim rule amended the FAR clause at 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment, by flowing down the requirements for the contractor or higher-tier subcontractor to check whether a subcontractor beyond the first tier is debarred, suspended, or proposed for debarment, with the stated dollar threshold and exceptions for commercial items and COTS items. As in the current clause, the contractor and higher-tier subcontractors must also notify the contracting officer in writing before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment, providing the contractor's knowledge of the reasons for the subcontractor being on the Excluded Parties Systems List, and the compelling reasons for doing business with the subcontractor, as well as the systems and procedures the contractor has established to ensure that it is fully protecting the Government's interests. The contracting officer will now have more visibility into whether lower- tier subcontractors have been debarred, suspended, or proposed for debarment. Because commercial contracts must now flow the requirement down to the first tier, the clause was added to FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

The comment period closed on February 11, 2011. Three respondents submitted comments on the interim rule.

II. Discussion/Analysis of the Public Comments

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Dollar Threshold in FAR 9.405–2

Comment: One respondent recommended a rewrite of FAR 9.405–2 to clarify that the notification requirement does not apply to subcontracts under $30,000.

Response: The Councils agree and have incorporated the requested change.

B. Definition of COTS Item

Comment: One respondent recommended deletion of the definition of COTS item from paragraph (a) of the FAR clause 52.209–6. The rationale is that the term is defined in FAR 2.101 and is therefore unnecessary in the clause.

Response: The Councils have retained the definition of COTS item in the clause. Although the clause at FAR 52.202–1, Definitions, provides for the applicability of definitions in FAR 2.101 to words or terms used in a solicitation provision or contract clause, unless the solicitation provides a different definition, or certain other exceptions apply, it is common practice to include the definition of important terms in solicitation provisions and contract clauses, for clarity and ease of use.

C. Applicability to Commercial Items

Comment: Two respondents supported the interim rule but hoped that the Councils will eliminate the exceptions for commercial item and COTS item acquisition contracts.

Response: The statute specifically stated that contracts for COTS items are exempt and that for contracts for commercial items, the requirements only flow to the first-tier subcontracts. The rule implements the statutory requirements.

Comment: One respondent suggested that the following rewording of the clause flowdown in FAR 52.209–6(e) to ''make the exceptions clearer'':

- ''*Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—
  - Exceeds $30,000 in value; and
  - Is not a subcontract for commercially available off-the-shelf items or commercial items.''

According to the respondent, if the subcontract is for COTS or commercial items, the clause will not flow down to any subcontractor, because the prime contractor is responsible for determining the suspension and debarment status of only first-tier commercial item subcontractors and the prime contractor is not responsible for determining the suspension and debarment status for COTS subcontractors.

Response: According to the statute, the prohibition on subcontracting with entities that have been debarred, suspended, or proposed for debarment applies to subcontractors at any tier, other than subcontractors for COTS items, except that in the case of a contract for commercial items, such term includes only first-tier subcontracts.

The difference between the revised language proposed by the respondent and the language that was proposed in the **Federal Register** is in the treatment of a subcontract for a commercial item. Both versions will arrive at the same result with regard to a prime contract for a commercial item and the first-tier subcontracts under that commercial contract. In such case, each first-tier subcontract (over $30,000 and not a COTS item) will have to disclose whether at time of subcontract award it, or its principals, is debarred, suspended, or proposed for debarment.

However, with regard to subcontracts for the acquisition of a commercial item (which were not specifically addressed by the statute), the proposed rule implemented the statute to also apply to the subcontract one tier below a commercial subcontract for the acquisition of a commercial item, whereas the proposed revision does not apply the requirements of the statute to a subcontract under a commercial subcontract. The Councils consider the language of the proposed rule to be a reasonable interpretation of the statutory intent, by requiring all commercial contractors (whether a prime contractor or a higher-tier subcontractor), to get the reports of the next-tier subcontractors, but not be required to flow the requirement down to the next tier. To adopt the interpretation of the respondent would narrow the ability of agencies to determine if a subcontractor has been debarred, suspended, or proposed for debarment because agencies would have no visibility into the debarment/suspension status of any subcontract that was one level below a subcontract for the acquisition of a commercial item. This appears to be contrary to the intent of the statute.

D. Compelling Reason

Comment: One respondent believes that the Councils should provide a clarification of the term ''compelling reason'' as it appears in FAR 9.405–2(b) and 52.209–6(b). FAR 9.405–2(b) and the clause at 52.209–6(b) state that contractors shall not enter into subcontracts in excess of $30,000, other than a subcontract for a COTS item, with a contractor that has been debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so.

Response: The Councils believe this request is outside the scope of this case. The term ''compelling reason'' was not instituted with the current FAR case, which simply removed applicability to COTS items and extended flowdown of the requirement to lower-tier subcontracts.

E. Applicability in FAR 52.212–5 and FAR 52.213–4

Comment: One respondent requested that both parentheticals indicating applicability be removed from the listing of the clause 52.209–6 in FAR 52.212–5 (commercial items) and 52.213–4 (simplified acquisition). The rationale of the respondent is that the directives are not complete and are not used in most clauses contained in these clauses. In addition, the respondent states that FAR 52.209–6 already states when the clause is applicable and applicability to subcontracts is covered in FAR 52.209–6(e).

Response: With regard to FAR 52.212–5, the contracting officer indicates if the clause applies to the acquisition of commercial items. The respondent is correct that no parenthetical indication of applicability is appropriate, unless the clause is applicable to the acquisition of commercial items, but is not applicable to the acquisition of COTS items (*e.g.,* FAR 52.223–9, Estimate of Percentage of Recovered Material). However, indication of inapplicability to subcontracts for COTS items is not appropriate. That is covered in the FAR clause itself, once it is decided that the clause is applicable to the prime contract. The Councils have removed both parentheticals from the listing of FAR 52.209–6 in the FAR clause 52.212–5 in the final rule.

However, with regard to the FAR clause 52.213–4, the Councils do not agree that there should be no parenthetical indication of applicability for the listed clauses. Unless the clause is required in all contracts, each of the clauses listed in paragraph (b) of FAR 52.213–4 indicates applicability parenthetically. However, this indication of applicability should be to the prime contract, not the subcontract. Therefore, the statement of inapplicability to subcontracts for the acquisition of COTS items has been deleted from the final rule.

III. 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, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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.* The interim rule removed requirements relating to subcontracts for COTS items. In the case of commercial items, the requirement extends only to the first-tier subcontracts. This rule will impact small entities that are awarded a lower-tier subcontract for a non-COTS item that exceeds $30,000, in that these entities must now disclose to the higher-tier subcontractor whether they are debarred, suspended, or proposed for debarment. Although a substantial number of small entities may be impacted by this rule, the impact is not significant. It will probably take only minimal time to include the required information with an offer. For the other impact of the rule, which will require the higher-tier subcontractor to provide an explanation if desiring to subcontract with an entity that has been debarred, suspended, or proposed for debarment, DoD, GSA, and NASA have determined that this will not impact a substantial number of small entities, because it should be a rare occurrence that a subcontractor would potentially jeopardize performance or integrity by knowingly contracting with an entity that is debarred, suspended, or proposed for debarment. No public comments were received with regard to the impact of this rule on small entities.

V. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provisions at FAR case 2009–036 currently approved under OMB Control Number 9000–0094 in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible because the change in burden hours is so slight.

List of Subjects in 48 CFR Parts 9 and 52

Government procurement.

Dated: June 28, 2011.

Laura Auletta,

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

Accordingly, the interim rule amending 48 CFR parts 9 and 52, which was published in the **Federal Register** at 75 FR 77739, December 13, 2010, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 9 and 52 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 9—CONTRACTOR QUALIFICATIONS

9.405–2 [Amended]

■ 2. Amend section 9.405–2 by removing from paragraph (b) introductory text, in the third sentence, ''to subcontract'' and adding ''to enter into a subcontract in excess of $30,000'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(6) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (AUG 2011)

* * * * *

(b) * * *

(6) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

* * * * *

■ 4. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(2)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (AUG 2011)

* * * * *

(b) * * *

(2) * * *

(i) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010) (Applies to contracts over $30,000).

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[FR Doc. 2011–16674 Filed 7–1–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 16

[FAC 2005–53; FAR Case 2011–015; Item IV; Docket 2011–0015, Sequence 1]

RIN 9000–AM08

Federal Acquisition Regulation; Extension of Sunset Date for Protests of Task and Delivery Orders

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The statute extends the sunset date for protests against the award of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011, to September 30, 2016.

DATES: *Effective Date:* July 5, 2011.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before September 6, 2011 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–53, FAR Case 2011–015, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''FAR Case 2011–015'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2011–015.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2011–015'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), *Attn:* Hada Flowers, 1275 First