

**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]

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**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]

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**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](mailto:gsarpolicy@gsa.gov) or 816–926–7172. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at [GSARegSec@gsa.gov](mailto: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

economic impact statement of the rule. As such, the analysis remains the same as before. This rule is not expected to have a significant impact to Government or industry. This rule will reduce the burden on leasing companies by allowing offerors to complete SAM representation for leases prior to award instead of prior to offer. Completing SAM representations prior to offer for each property is time consuming for a leasing company and burdensome to effective competition. This will streamline the process and encourage competition, which will benefit the Government.

**IV. Executive Orders 12866, 13563 and 14904**

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. E.O. 14094 Modernizing Regulatory Review (<https://www.federalregister.gov/documents/2023/04/11/2023-07760/modernizing-regulatory-review>) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. The Office of Information and Regulatory Affairs (OIRA) has determined this rule not to be a significant regulatory action and, therefore, is not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

**V. Congressional Review Act**

OIRA has determined this rule is not to be a “major rule” under 5 U.S.C. 804(2). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a “major rule” may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The General Services Administration will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect

until 60 days after it is published in the **Federal Register**.

**VI. Regulatory Flexibility Act**

GSA does not expect this 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 it reduces the burden on small business entities by allowing offerors to complete SAM representation for leases prior to award instead of prior to offer, and does not implement new or changed requirements. However, a Final Regulatory Flexibility Analysis (FRFA) has been prepared consistent with 5 U.S.C. 604.

The Regulatory Secretariat will submit a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the FRFA may be obtained from the Regulatory Secretariat Division.

The analysis is summarized as follows:

GSA is amending the GSAR to permit the completion of the SAM representations at award instead of at offer for lease procurements.

There were no comments submitted and therefore no significant issues raised by the public in response to the initial regulatory flexibility analysis.

Two editorial fixes were made:

- GSA corrected the 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.

The objective of the rule is to amend the GSAR to amend Part 552, Solicitation Provisions and Contract Clauses, of the GSAR by creating Subsection 552.270–35, System for Award Management—Leasing.

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

GSA has approximately 8,000 leases in total. Approximately 70 percent of leasing entities were small entities. This information is based on internal inventory data sources.

GSA does not expect this rule to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act, at 5 U.S.C. 601. This rule reduces the burden on small business entities by allowing offerors to complete SAM representation for leases prior to award instead of prior to offer, and does not implement new or changed requirements.

The rule involves reporting and recordkeeping that are currently covered under OMB Control Number 9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements. This rule does not include any new reporting, recordkeeping, or other

compliance requirements for small business entities.

This rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives to this rule which would accomplish the stated objectives. This rule does not initiate or impose any new administrative or performance requirements on small business contractors.

**VII. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget Control Number 9000–0189, *Certain Federal Acquisition Regulation Part 4 Requirements*.

**List of Subjects in 48 CFR Parts 501, 552, and 570**

Government procurement.

**Jeffrey A. Koses,**

*Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.*

Therefore, GSA is amending 48 CFR parts 501, 552, and 570 as set forth below:

- 1. The authority citation for 48 CFR parts 501, 552, and 570 continues to read as follows:

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

**PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM**

- 2. In section 501.106, amend table 1 by adding in numerical order an entry for “552.270–35”.

The addition reads as follows:

**501.106 OMB Approval under the Paperwork Reduction Act.**

\* \* \* \* \*

TABLE 1 TO 501.106

GSAR reference	OMB control No.
* * * * *	
552.270–35 .....	9000–0189
* * * * *	

**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

- 3. Add section 552.270–35 to read as follows:

**552.270–35 System for Award Management—Leasing.**

As prescribed in 570.702, insert the following provision:

**System for Award Management—Leasing (12/2024)**

(a) *Definitions.* As used in this provision—

*Electronic Funds Transfer (EFT) indicator* means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

*Registered in the System for Award Management (SAM)* means that—

(i) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into SAM;

(ii) The Offeror has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in SAM;

(iii) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(iv) The Government has marked the record “Active”.

*Unique entity identifier* means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b)(1) An Offeror is required to be registered in SAM at time of award, and shall maintain registration in SAM during contract performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which the entity is commonly recognized.

(3) Company physical street address, city, state, and Zip Code.

(4) Company mailing address, city, state and Zip Code (if separate from physical).

(5) Company telephone number.

(6) Date the company was started.

(7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within the entity).

(d) If the Offeror does not become registered in the SAM database in the

time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of the solicitation. See <https://www.sam.gov> for information on registration.

(End of provision)

Alternate I (12/2024).As prescribed in 570.702, substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b)(1) An Offeror is required to be registered in SAM as soon as possible. If registration is not possible prior to award, the Contractor shall be registered in SAM within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

**PART 570—ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY****570.701 [Amended]**

■ 4. In section 570.701 amend the table in paragraph (a), in the second column, by removing the entry “52.204–7 System for Award Management.”

■ 5. Amend section 570.702 by adding in numerical order and entry for “552.270–35” to read as follows:

**570.702 GSAR solicitation provisions.**

\* \* \* \* \*

**552.270–35 System for Award Management—Leasing (in lieu of FAR 52.204–7).**

Use Alternate I of the provision for procurements not providing for full and open competition due to unusual or compelling urgency.

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