United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

September 16, 2013

Department of the Interior Acquisition Policy Release (DIAPR) 2013-09

Subject: **Federal Acquisition Regulation; Update to Biobased Reporting Requirements**

References: Federal Register, Volume 78, Number 148, dated August 1, 2013; and Federal Acquisition Regulation (FAR) 52.223-2, *Affirmative Procurement of Biobased Products under Service and Construction Contracts*

1. Purpose: This DIAPR issues the Final Rule amending the FAR to revise the biobased reporting clause to require affected contractors to submit the annual biobased report to a new governmentwide web site.

This DIAPR supersedes and replaces DIAPR 2013-02, *Class Deviation from the Federal Acquisition Regulation (FAR) Extending the Biobased Product Reporting Requirement*, issued on November 26, 2012.

2. Effective Date: Effective immediately upon signature.

3. Expiration Date: No expiration date unless cancelled or superseded.

4. Background and Explanation: On August 1, 2013, a Final Rule amending the FAR was issued in the Federal Register, to revise the biobased reporting clause to require affected contractors to submit the annual biobased report to a new governmentwide web site, located at http://www.sam.gov, rather than an agency point of contact. This requirement only pertains to those contracts issued from May 18, 2012, forward, which contain FAR clause 52.223-2. The Federal Register notice is attached for your reference.

5. Action Required: Contracts issued from May 18, 2012, forward, which contain FAR clause 52.223-2, are subject to this Final Rule. Contractors shall report USDA-designated biobased products purchased in the course of performing contract work to the web site http://www.sam.gov. The new web site also includes instructions on how to complete the report and frequently asked questions. Instructions can be found under the **HELP** tab, **USER GUIDES**. Choose either the **QUICK USER GUIDES** or the **FULL USER GUIDE** for more extensive instruction. Both instructional areas refer to the biobased reporting by the formal program name , BioPreferred Report.

Please disseminate this guidance within your bureau. It will also be available online at http://www.doi.gov/pam. Questions may be directed to contact Brian Heath, Office of Acquisition and Property Management, at 202-513-0735 or Brian_Heath@ios.doi.gov.

Debra E. Sonderman, Director
Office of Acquisition and Property Management

Attachment

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (SEP 2013)

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(b) * * *

____ (41) 52.225–5, Trade Agreements (Sep 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

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■ 4. Amend section 52.225–5 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a) in the definition "Designated country" in paragraph (3) "East Timor," and "Maldives," and adding, in alphabetical order, "South Sudan," and "Timor-Leste,".

The revision reads as follows:

52.225–5 Trade Agreements.

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Trade Agreements (SEP 2013)

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■ 5. Amend section 52.225–11 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a) in the definition "Designated country" in paragraph (3) "East Timor," and "Maldives," and adding, in alphabetical order, "South Sudan," and "Timor-Leste,".

The revision reads as follows:

52.225–11 Buy American Act—Construction Materials Under Trade Agreements.

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Buy American Act—Construction Materials Under Trade Agreements (SEP 2013)

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■ 6. Amend section 52.225–23 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a) in the definition "Designated country" in paragraph (3) "East Timor," and "Maldives," and adding, in alphabetical order, "South Sudan," and "Timor-Leste,"; and

■ c. Removing from paragraph (a) in the definition "Recovery Act designated country" in paragraph (3) "East Timor," and "Maldives," and adding, in alphabetical order, "South Sudan," and "Timor-Leste,".

The revision reads as follows:

52.225–23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

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Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements. (SEP 2013)

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[FR Doc. 2013–18463 Filed 7–31–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2005–69; FAR Case 2013–006; Item VI; Docket 2013–0006, Sequence 1]

RIN 9000–AM63

Federal Acquisition Regulation; Update to Biobased Reporting Requirements

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 revise the biobased reporting clause to require the contractor to submit the annual biobased report to a new Governmentwide Web site instead of the agency environmental point of contact.

DATE: *Effective:* September 3, 2013

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, at 202–501–0136, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–69, FAR Case 2013–006.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are revising the clause at FAR 52.223–2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, to reflect new reporting instructions for the annual biobased report; the reports will be submitted to a new Web site rather than to an agency point of contact.

For reporting in 2012, the Department of Agriculture provided a reporting site that was intended to be available for one year only. The Web site to be used for the annual Biobased reports due at the end of October 2013, *http://www.sam.gov,* is intended to be the permanent site used for reporting this information. The new Web site is a Governmentwide site that allows contractors to submit a report on a contract-by-contract basis at any time throughout the year, improving consistency in reporting across Federal agencies with the goal of increasing Federal procurement of biobased products. The new Web site also generates a Governmentwide report for agency use. In addition, the new Web site includes instructions on how to complete the report and frequently asked questions.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

"Publication of proposed regulations", 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because submission of the report was already required and changing the Web site to which the report is submitted will have no cost or other impact on contractors. These requirements affect only the internal operating procedures of the Government.

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 Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subject in 48 CFR Part 52

Government procurement.

Dated: July 26, 2013.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52–SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 52.223–2 by—

■ a. Revising the date of the clause and paragraph (c)(1);

■ b. Removing from paragraph (c)(2)(ii) "; and" and adding a period in its place; and

■ c. Removing paragraphs (c)(3) and (d).

The revised text reads as follows:

52.223–2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

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Affirmative Procurement of Biobased Products Under Service and Construction Contracts. (Sept, 2013)

* * * * *

(c) * * *

(1) Report to *http://www.sam.gov,* with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and

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BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 22, and 52

[FAC 2005–69; Item VII; Docket 2013–0080; Sequence 4]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective:* August 1, 2013.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–69, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 2, 22, 29, and 52, this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 2, 22, and 52

Government procurement.

Dated: July 26, 2013.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 22, 29, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 22, 29, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

■ 2. Amend section 2.101, in paragraph (b)(2), in the definition "Commercially available off-the-shelf (COTS) item", by—

■ a. Removing "(COTS) item" and adding "(COTS) item—" in its place; and

■ b. In paragraph (2) of the definition removing "bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)" and adding "bulk cargo, as defined in 46 U.S.C. 40102(4)" in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1801 [Amended]

■ 3. Amend section 22.1801, in the definition "Commercially available off-the-shelf (COTS) item", paragraph (2), by removing "bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)" and adding "bulk cargo, as defined in 46 U.S.C. 40102(4)" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 52.209–6 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a)(2) in the definition "Commercially available off-the-shelf (COTS) item" the words "bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)" and adding "bulk cargo, as defined in 46 U.S.C. 40102(4)" in their place.

The revision reads as follows:

52.209–6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

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Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (Aug, 2013)

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■ 5. 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.

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Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Aug, 2013)

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(b) * * *

(6) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Aug, 2013) (31 U.S.C. 6101 note).

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■ 6. Amend section 52.222–54 by—

■ a. Revising the date of the clause; and