



This document is scheduled to be published in the Federal Register on 05/16/2013 and available online at <http://federalregister.gov/a/2013-11398>, and on FDsys.gov

(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 209, 217, 252, and Appendix F to Chapter 2

RIN 0750-AH87

Defense Federal Acquisition Regulation Supplement: System for Award Management Name Changes, Phase 1 Implementation (DFARS Case 2012-D053)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect the joining of the Central Contractor Registration (CCR), Online Representations and Certification Application (ORCA), and Excluded Parties Listing System (EPLS) databases into the System for Award Management (SAM) database.

DATES: Effective Date: [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Lee Renna, telephone 571-372-6095.

SUPPLEMENTARY INFORMATION:

I. Background

The E-Government Act of 2002 (Pub. L. 107-347, 44 U.S.C. 101) was enacted in an effort to improve the management and promotion of electronic Government services and processes. The Act established a framework of measures that require using Internet-based information technology to improve citizen access to Government information and services. The General Services Administration (GSA) has embraced the intent of the Act by consolidating the Government-wide acquisition and award support systems into SAM. SAM is a procurement system that streamlines the Federal acquisition business processes by acting as a single authoritative data source for vendor, contract award, and reporting information, thereby eliminating the need to enter multiple sites and perform duplicative data entry. SAM consolidates hosting to improve the efficiency of doing business with the Government.

The General Services Administration (GSA) began implementation of Phase 1 of SAM on July 29, 2012. Phase 1 combined the functional capabilities of the CCR, ORCA, and EPLS procurement systems into the SAM database. Upon implementation, the pre-existing procurement systems were retired, and all requirements for entity registration, representations and certifications, and exclusions are now accomplished via SAM. This final rule amends DFARS subparts 204, 209, 217, 252, and Appendix F by updating references and names to conform to the

SAM designation. This final rule also makes a number of minor additional conforming changes, such as updates to definitions. A Federal Acquisition Regulation (FAR) case, 2012-033, is also being processed to effect similar conforming updates.

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 it only serves to ensure that the procurement systems that are referenced in the DFARS reflect those that are currently being utilized by the acquisition workforce in the performance of those functions relating to entity registration, representations and certifications, and exclusions. Therefore, this rule has no significant effect beyond the internal operating procedures of

the Government, nor does the rule create a significant cost or administrative impact on contractors or offerors.

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 DFARS revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The 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 Subjects in 48 CFR Parts 204, 209, 217, 252, and
Appendix F**

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, DoD amends 48 CFR parts 204, 209, 217, and 252 as follows:

1. The authority citation for parts 204, 209, 217, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

PART 204 - ADMINISTRATIVE MATTERS

2. Revise section 204.203 to read as follows:

204.203 Taxpayer identification information.

(b) The procedure at FAR 4.203(b) does not apply to contracts that include the provision at FAR 52.204-7, System for Award Management. The payment office obtains the taxpayer identification number and the type of organization from the System for Award Management database.

3. Revise the subpart heading of subpart 204.11 to read as follows:

SUBPART 204.11—SYSTEM FOR AWARD MANAGEMENT

4. Amend section 204.1103 by—

- a. Adding introductory text;
- b. In paragraph (1), removing "Central Contractor Registration (CCR)" and adding the word "(SAM)" in its place; and
- c. In paragraphs (2)(i), (3), and (4), removing the word "CCR" and adding the word "SAM" in its place.

The added text reads as follows:

204.1103 Procedures.

See PGI 204.1103 for helpful information on navigation and data entry in the System for Award Management (SAM) database.

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5. Revise section 204.1105 to read as follows:

204.1105 Solicitation provision and contract clauses.

When using the clause at FAR 52.204-7, System for Award Management, use the clause with 252.204-7004, Alternate A, System for Award Management.

6. Amend section 204.7202-1 by—

- a. Revising paragraph (b)(1); and
- b. In paragraph (b)(2) introductory text, removing the word "CCR" and adding the word "SAM" in its place.

The revised text reads as follows:

204.7202-1 CAGE codes.

* * * * *

(b)(1) If a prospective contractor located in the United States must register in the System for Award Management (SAM) database (see FAR subpart 4.11) and does not have a CAGE code, DLA Logistics Information Service will assign a CAGE code when the prospective contractor submits its request for registration in the SAM database. Foreign registrants must obtain a North Atlantic Treaty Organization CAGE (NCAGE) code in order to register in the SAM database. NCAGE codes may be obtained from the Codification Bureau in the foreign registrant's country. Additional information on obtaining NCAGE codes is available at http://www.dlis.dla.mil/Forms/Form_AC135.asp.

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204.7207 [Amended]

7. Amend section 204.7207, in paragraph (a), by removing "Central Contractor Registration" and adding "System for Award Management" in its place.

PART 209 - CONTRACTOR QUALIFICATIONS

209.105-1 [Amended]

8. Amend section 209.105-1, in paragraph (1), by removing "Excluded Parties List System" and adding "System for Award Management Exclusions" in its place.

PART 217 - SPECIAL CONTRACTING METHODS

217.207 [Amended]

9. Amend section 217.207, in paragraph (c), by removing "Central Contractor Registration" and adding "System for Award Management" in its place.

PART 252 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Revise section 252.204-7004 to read as follows:

252.204-7004 Alternate A, System for Award Management.

ALTERNATE A, SYSTEM FOR AWARD MANAGEMENT (DATE)

As prescribed in 204.1105, substitute the following paragraph (a) for paragraph (a) of the provision at FAR 52.204-7:

(a) *Definitions.* As used in this clause--

"System for Award Management (SAM) database" means the primary Government repository for contractor information required for the conduct of business with the Government.

"Commercial and Government Entity (CAGE) code" means--

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code."

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional SAM records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR 32.11) for the same parent concern.

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

(1) The contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, and Contractor and Government Entity (CAGE) code into the SAM database;

(2) The contractor has completed the Core Data, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

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

(4) The Government has marked the record "Active."

11. Amend section 252.204-7007 by—

a. Removing the clause date "(JUL 2012)" and adding "(DATE)" in its place;

b. In paragraph (d)(1) introductory text, removing the word "ORCA" and adding "the System for Award Management (SAM) database" in its place;

c. In paragraph (d)(2) introductory text, removing the word "ORCA" and adding the word "SAM" on its place;

d. In paragraph (e), removing "Online Representations and Certifications Application (ORCA)" and adding the word "SAM" in its place; and

e. Revising last sentence of paragraph (e).

The revised text reads as follows:

252.204-7007 Alternate A, Annual Representations and Certifications.

* * * * *

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications located in the SAM database.

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252.232-7006 [Amended]

12. Amend section 252.232-7006 by—

a. Removing the clause date "(JUN 2012)" and adding "(DATE)" in its place; and

b. In paragraph (c) (1), removing "Central Contractor Registration" and adding "System for Award Management" in its place.

13. Amend section 252.232-7011 by—

a. Removing the clause date "(JUL 2010)" and adding "(DATE)" in its place; and

b. Revising paragraph (c) (2) (ix) (B) to read as follows:

252.232-7011 Payments in Support of Emergencies and Contingency Operations.

* * * * *

(c) * * *

(2) * * *

(ix) * * *

(B) If electronic funds transfer banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct electronic funds transfer banking information in accordance with the applicable solicitation provision (e.g., FAR 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., FAR 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or FAR 52.232-34, Payment by Electronic Funds Transfer-Other Than System for Award Management), or applicable agency procedures.

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252.245-7004 [Amended]

14. Amend section 252.245-7004 by—

- a. Removing the clause date "(APR 2012)" and adding "(DATE)" in its place; and
- b. In paragraph (a)(3)(i), removing "Excluded Parties Listing (EPLS) (<https://www.eppls.gov/>)" and adding "System for Award Management Exclusions located at <https://www.acquisition.gov>" in its place.

APPENDIX F TO CHAPTER 2 - [AMENDED]

15. In appendix f to chapter 2, amend section F-301 by—

- a. In paragraph (a)(3)(iii), removing "CCR (Central Contractor Registration)" and adding "System for Award Management (SAM)" in its place; and
- b. In paragraph (a)(4), removing the word "CCR" and adding the word "SAM" in its place.

[FR Doc. 2013-11398 Filed 05/15/2013 at 8:45 am; Publication
Date: 05/16/2013]