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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

AGENCIES: 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 website instead of the agency environmental point of contact.

DATE: Effective: [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

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 website 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 website 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 website 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.

* * * * *

AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS. ([INSERT ABBREVIATED MONTH AND YEAR 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER])

* * * * *

(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]

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