

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite GSAR Amendment 2012-02, GSAR Case 2011-G502.

SUPPLEMENTARY INFORMATION:

I. Background

The General Services Administration is amending the GSAR to comply with changes made to acquisition-related thresholds by Federal Acquisition Circular 2005-45 (Federal Acquisition Regulation (FAR) Case 2008-024), published in the **Federal Register** at 75 FR 53129, August 30, 2010, with an effective date of October 1, 2010. FAR Case 2008-024 implements Section 807 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 807 provides for adjustment every 5 years of acquisition-related thresholds, except for Davis-Bacon Act, Service Contract Act, and trade agreements thresholds.

As a result of changes made to the acquisition-related thresholds, the GSAR clause at 552.219-71, Notice to Offerors of Subcontracting Plan Requirements, is revised by removing "\$500,000" and "\$1,000,000" and replacing the GSAR text with "\$650,000" and "\$1,500,000", respectively. The GSAR clause at 552.219-72, Preparation, Submission, and Negotiation of Subcontracting Plans, is revised by removing "\$500,000" and "\$1,000,000" and replacing the GSAR text with "\$650,000" and "\$1,500,000", respectively.

II. 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.

III. Regulatory Flexibility Act

The General Services 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.*, because FAR Case 2008-024, which addresses the acquisition-related thresholds, was published in the **Federal Register** at 75 FR 53129, August 30, 2010, with an effective date of October 1, 2010. Further, Acquisition Letter MV-11-01, Adjustment of GSAM Acquisition-Related Thresholds due to Federal Acquisition Circular 2005-45 (Item I, Inflation Adjustment of Acquisition-Related Thresholds), was effective immediately upon the publishing of Acquisition Letter (October 8, 2010). All other revisions to the GSAM are non-regulatory.

IV. 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 519 and 552

Government procurement.

Dated: February 16, 2011.

Joseph A. Neurauter,
Senior Procurement Executive, Office of Acquisition Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 519 and 552 as set forth below:

PART 519—SMALL BUSINESS PROGRAMS

- 1. The authority citation for 48 CFR part 519 is revised to read as follows:

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

- 2. Amend section 519.870-8 by revising paragraph (a)(3) to read as follows:

519.870-8 Contract clauses.

(a) * * *

(3) Insert the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns. Substitute the following paragraph for paragraph (c) of the clause. Add the word "Deviation" at the end of the clause title.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

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PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 3. The authority citation for 48 CFR part 552 continues to read as follows:

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

- 4. Amend section 552.219-71 by revising the date of the provision; and by removing from the introductory text "\$500,000 (\$1,000,000)" and adding "\$650,000 (\$1,500,000)" in its place. The revised text reads as follows:

552.219-71 Notice to Offerors of Subcontracting Plan Requirements.

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Notice to Offereors of Subcontracting Plan Requirements (MAR 2012)

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- 5. Amend section 552.219-72 by revising the date of the provision; and removing from the introductory text "\$500,000 (\$1,000,000)" and adding "\$650,000 (\$1,500,000)" in its place. The revised text reads as follows:

552.219-72 Preparation, Submission, and Negotiation of Subcontracting Plans.

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Preparation, Submission, and Negotiation of Subcontracting Plans (MAR 2012)

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- 6. Amend section 552.219-76 by revising the date of the clause; and removing from paragraph (f) "519.7011(j)" and adding "519.7010(j)" in its place. The revised text reads as follows:

552.219-76 Mentor Requirements and Evaluation.

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Mentor Requirements and Evaluation (MAR 2012)

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[FR Doc. 2012-4229 Filed 2-22-12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 199

[Docket No. PHMSA-2011-0335]

Pipeline Safety: Post Accident Drug and Alcohol Testing

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice of Issuance of Advisory Bulletin.

SUMMARY: PHMSA regulations in Part 199 require pipeline operators and operators of Liquefied Natural Gas (LNG) facilities to conduct post-accident drug and alcohol tests of covered employees. Within the mandated timelines after a reportable pipeline accident or incident, operators must drug and alcohol test each covered employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident or incident. Operators must make the determination of employee contribution to the accident or incident promptly to meet the timelines for testing required by the regulations. This was further emphasized by the National Transportation Safety Board (NTSB) in its report of the September 9, 2010, incident in San Bruno, California.

DATES: February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Stanley Kastanas by phone at 202–550–0629 or by email at stanley.kastanas@dot.gov, regarding the subject matter of this advisory bulletin, or the Dockets Unit, 202–366–4453, for copies of this advisory bulletin or other material in the docket. All materials in this docket may be accessed electronically at <http://www.regulations.gov/search/Regs/home.html#home>. General information about the PHMSA Office of Pipeline Safety (OPS) can be obtained by accessing OPS's Internet home page at <http://www.phmsa.dot.gov/pipeline>.

SUPPLEMENTARY INFORMATION:

I. Background

On September 9, 2010, a 30-inch-diameter segment of an intrastate natural gas transmission pipeline owned and operated by the Pacific Gas and Electric Company ruptured in a residential area in San Bruno, California. As a result of an NTSB investigation of this event, one of its recommendations to PHMSA was to issue guidance clarifying the need to conduct post-accident drug and alcohol testing of all potentially involved personnel despite uncertainty about the circumstances of the accident. This advisory bulletin fulfills the NTSB recommendation and PHMSA's ongoing commitment to pipeline safety.

II. Advisory Bulletin (ADB–2012–02)

To: Operators of Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities.

Subject: Post-Accident Drug and Alcohol Testing.

Advisory: “The need to conduct post-accident drug and alcohol testing of all potentially involved personnel despite uncertainty about the circumstances of the accident” is an important reminder and recommendation in the final report of the NTSB—*Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010*, Pipeline Accident Report [NTSB/PAR–11/01; Washington, DC]. The term “accident” in Part 199 includes both “incidents” reportable under Part 191 and “accidents” reportable under Part 195. Covered employees include both operator employees and contractor employees performing operations, maintenance, or emergency response functions. Operators and contractors are encouraged to review and update, where necessary, plans and procedures governing post-accident substance abuse/misuse testing and train all those involved with ensuring that such testing is performed promptly and in an effective manner.

Compliance Reminder

Operators are reminded that covered functions encompass a broad range of employee and contractor positions, including, but not limited to, contract emergency responders, pressure control technicians, temp-agency covered employees, and control room operators. If a covered employee's performance cannot be completely discounted as a contributing factor to the accident or incident, the employee must be tested for the potential substance abuse or misuse of both drugs and alcohol. In order to meet the testing timelines, do not delay testing in order to determine the circumstances surrounding the accident or incident. However, the accident or incident circumstances and events must be assessed promptly and documented, especially the reasons for not drug or alcohol testing an accident-related covered employee.

Key Regulatory Sections Applicable to Post-Accident Drug and Alcohol Testing

The following are key regulatory sections addressing post-accident drug and alcohol testing that should be reviewed, along with other applicable sections of Part 199:

- Under § 199.105, post-accident drug tests of covered employees whose performance cannot be completely discounted as a contributing factor to the accident must be completed no later than 32 hours after the accident.

- Under § 199.225(a), if an operator does not complete post-accident alcohol testing of covered employees whose performance cannot be completely discounted as a contributing factor to the accident within two hours of the accident, the operator must prepare and maintain on file a record stating the reasons the test was not promptly administered. If post-accident alcohol testing is not administered within eight hours following the accident, the operator must cease attempts to administer an alcohol test and must state in the record the reasons for not administering the test. Covered employees must remain available for post-accident testing, but emergency response or medical care of the employee are never to be delayed for alcohol testing.

- Under § 199.221, each operator shall prohibit a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident from using alcohol for eight hours following the accident, unless he or she has been given a post-accident test under § 199.225(a), or the operator has determined that the employee's performance could not have contributed to the accident.

- Under § 199.103(a) an operator may not knowingly use as an employee any person who (1) Fails a drug test required by this part and the Medical Review Officer makes a determination under DOT Procedures Part 40; or (2) refuses to take a drug test required by this part.

- Under § 199.223, each operator shall require a covered employee to submit to a post-accident alcohol test required under § 199.225(a). No operator shall permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.

- Under § 199.233, no operator shall permit any covered employee to perform covered functions if the employee has engaged in conduct prohibited by §§ 199.215 through 199.223.

Issued in Washington, DC, February 15, 2012.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

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