

responsibility determination or evaluation of past performance; and

(3) If this is an award-fee contract, the Contractor's failure to comply with the requirements of this clause shall be considered in the evaluation of the Contractor's performance during the relevant evaluation period, and the Contracting Officer may treat such failure to comply as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period.

(e) *Rule of construction.* The duty of the Contractor to comply with the requirements of this clause shall not be reduced or diminished by the failure of a higher- or lower-tier Contractor or subcontractor to comply with the clause requirements or by a failure of the contracting activity to provide required oversight.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that will be performed in areas of—

(1) *DoD contracts only:* Contingency operations, combat operations, as designated by the Secretary of Defense, or other significant military operations, as designated by the Secretary of Defense upon agreement of the Secretary of State; or

(2) *Non-DoD contracts:* Combat operations, as designated by the Secretary of Defense, or other significant military operations, upon agreement of the Secretaries of Defense and State that the clause applies in that area.

(End of clause)

- 6. Amend section 52.244–6 by—
- a. Revising the date of the clause;
- b. Redesignating paragraph (c)(1)(ix) as paragraph (c)(1)(x); and
- c. Adding a new paragraph (c)(1)(ix).

The revised and added text reads as follows:

#### **52.244–6 Subcontracts for Commercial Items.**

\* \* \* \* \*

#### **Subcontracts for Commercial Items (Jul 2013)**

\* \* \* \* \*

(c)(1) \* \* \*

(ix) 52.225–26, Contractors Performing Private Security Functions Outside the United States *Jul 2013* (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

\* \* \* \* \*

[FR Doc. 2013–14610 Filed 6–20–13; 8:45 am]

BILLING CODE 6820–EP–P

## **DEPARTMENT OF DEFENSE**

### **GENERAL SERVICES ADMINISTRATION**

### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

#### **48 CFR Parts 1 and 7**

[FAC 2005–67; FAR Case 2013–004; Item II; Docket 2013–0004, Sequence 1]

RIN 9000–AM52

#### **Federal Acquisition Regulation; Contracting Officer's Representative**

**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 improve contract surveillance by clarifying the contracting officer's representative (COR) responsibilities.

**DATES:** *Effective Date:* July 22, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2013–004.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

DoD, GSA, and NASA are issuing a final rule to improve contract surveillance by clarifying the COR responsibilities in FAR 1.602–2(d). In addition, a corresponding change is also made at FAR 7.104(e).

This case originated from a DoD Panel on Contracting Integrity recommendation. The DoD Panel on Contracting Integrity, an internal DoD panel, consists of senior-level DoD officials from across DoD working to review progress made by DoD to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur, and recommend changes in law, regulations, and policy to eliminate the areas of vulnerability. In order to improve the contracting environment, this rule provides additional explanation in the FAR to ensure that CORs understand their duties and responsibilities to survey contractor performance.

## **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 has either a significant effect beyond the internal operation 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 involves internal Government procedures regarding the appointment of CORs and the clarification of COR responsibilities. This rule does not have a significant effect beyond the internal operation procedures of the agency issuing the policy, regulation, procedure, or form, and there is no 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 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 Subjects in 48 CFR Parts 1 and 7

Government procurement.

Dated: June 13, 2013.

**William Clark,**

*Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1 and 7 as set forth below:

■ 1. The authority citation for 48 CFR parts 1 and 7 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.602–2 by—

- a. Removing from the end of paragraph (b) “and”;
- b. Removing from paragraph (c) “.” and adding “; and” in its place; and
- c. Revising paragraph (d) to read as follows:

### 1.602–2 Responsibilities.

\* \* \* \* \*

(d) Designate and authorize, in writing and in accordance with agency procedures, a contracting officer's representative (COR) on all contracts and orders other than those that are firm-fixed price, and for firm-fixed-price contracts and orders as appropriate, unless the contracting officer retains and executes the COR duties. See 7.104(e). A COR—

(1) Shall be a Government employee, unless otherwise authorized in agency regulations;

(2) Shall be certified and maintain certification in accordance with the current Office of Management and Budget memorandum on the Federal Acquisition Certification for Contracting Officer Representatives (FAC–COR) guidance, or for DoD, in accordance with the current applicable DoD policy guidance;

(3) Shall be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with agency procedures;

(4) May not be delegated responsibility to perform functions that have been delegated under 42.202 to a contract administration office, but may be assigned some duties at 42.302 by the contracting officer;

(5) Has no authority to make any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract nor in any way direct the contractor or its subcontractors to

operate in conflict with the contract terms and conditions;

(6) Shall be nominated either by the requiring activity or in accordance with agency procedures; and

(7) Shall be designated in writing, with copies furnished to the contractor and the contract administration office—

(i) Specifying the extent of the COR's authority to act on behalf of the contracting officer;

(ii) Identifying the limitations on the COR's authority;

(iii) Specifying the period covered by the designation;

(iv) Stating the authority is not redelegable; and

(v) Stating that the COR may be personally liable for unauthorized acts.

## PART 7—ACQUISITION PLANNING

■ 3. Amend section 7.104 by revising paragraph (e) to read as follows:

### 7.104 General procedures.

\* \* \* \* \*

(e) The planner shall ensure that a COR is nominated as early as practicable in the acquisition process by the requirements official or in accordance with agency procedures. The contracting officer shall designate and authorize a COR as early as practicable after the nomination. See 1.602–2(d).

[FR Doc. 2013–14611 Filed 6–20–13; 8:45 am]

**BILLING CODE 6820–EP–P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**48 CFR Parts 2, 4, 8, 9, 12, 13, 16, 17, 18, 19, 22, 25, 26, 28, 32, 44, and 52**

**[FAC 2005–67; FAR Case 2012–033; Item III; Docket 2012–0033, Sequence 1]**

**RIN 9000–AM51**

### Federal Acquisition Regulation; System for Award Management Name Change, Phase 1 Implementation

**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 reflect the joining of the Central Contractor Registration (CCR), Online

Representations and Certification Application (ORCA), and Excluded Parties List System (EPLS) databases into the System for Award Management (SAM) database.

**DATES:** *Effective Date:* July 22, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–67, FAR Case 2012–033.

### SUPPLEMENTARY INFORMATION:

#### I. Background

The E-Government Act of 2002 (Pub. L. 107–347) 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. GSA has embraced the intent of the Act by consolidating the Government-wide acquisition and award support systems into SAM. SAM is an information system tool 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.

GSA began implementation of Phase 1 of SAM on July 29, 2012. Phase 1 combined the functional capabilities of the CCR, ORCA, and EPLS applications into the SAM database. Upon implementation, the pre-existing applications were retired, and all requirements for entity registration, representations and certifications, and exclusions are now accomplished via SAM. This final rule amends the FAR 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.

#### 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