

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 1. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 2. Section 63.60 is amended by redesignating paragraph (d) as paragraph (g); redesignating paragraph (c) as paragraph (e); redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively; and adding paragraphs (a), (b)(3), (d), and (f) to read as follows:

§ 63.60 Definitions.

* * * * *

(a) For the purposes of §§ 63.60 through 63.90, the term “carrier,” when used to refer either to all telecommunications carriers or more specifically to non-dominant telecommunications carriers, shall include interconnected VoIP providers.

(b) * * *

(3) The conversion of an interconnected VoIP service to a service that permits users to receive calls that originate on the public switched telephone network but not terminate calls to the public switched telephone network, or the converse.

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(d) The term “interconnected VoIP provider” is an entity that provides interconnected VoIP service as that term is defined in § 9.3 of this chapter.

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(f) For the purposes of §§ 63.60 through 63.90, the term “service,” when used to refer to a real-time, two-way voice communications service, shall include interconnected VoIP service as that term is defined in § 9.3 of this chapter but shall not include any interconnected VoIP service that is a “mobile service” as defined in § 20.3 of this chapter.

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GENERAL SERVICES ADMINISTRATION

48 CFR Part 502

[GSAR Amendment 2009–10; GSAR Case 2008–G501 (Change 38) Docket 2009–0012; Sequence 1]

RIN 3090–AI90

General Services Administration Acquisition Regulation; GSAR Case 2008–0501, Rewrite of Part 502, Definitions of Words and Terms

AGENCIES: General Services Administration (GSA), Office of the Chief Acquisition Officer.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to revise sections of GSAR Part 502 that provide definitions for general words and terms. This section will only contain definitions for terms that are used in more than one place in the GSAR.

DATES: *Effective Date:* August 7, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Edward Loeb, Procurement Analyst, at (202) 501–0650. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, 1800 F Street, NW., Washington, DC 20405, (202) 501–4755. Please cite Amendment 2009–10, GSAR case 2008–G501 (Change 38).

SUPPLEMENTARY INFORMATION:

A. Background

The GSA is amending the GSAR to update the text addressing GSAR 502.101, Definition of Words and Terms. This rule is a result of the GSA Acquisition Manual (GSAM) Rewrite initiative undertaken by GSA to revise the GSAM to maintain consistency with the FAR, and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can use when entering into and administering contractual relationships. The GSAM incorporates the GSAR as well as internal agency acquisition policy.

The GSA will rewrite each part of the GSAR and GSAM, and as each part is rewritten, will publish it in the **Federal Register**.

This rule covers the rewrite of GSAR Part 502. The rule revises Part 502 to update the text addressing GSAR 502.101, Definition of Words and Terms. The section was changed to reflect the merger of the Federal

Technology Service and Federal Supply Service; creation of the Federal Acquisition Service; and deletion of the title Deputy Associate Administrator of Acquisition Policy, and introduction of Deputy Chief Acquisition Officer. No additional definitions were added. The GSA is publishing this as a final rule. The changes are considered administrative.

Discussion of Comments

The GSA published an Advance Notice of Proposed Rulemaking (ANPR) with request for comments at 71 FR 7910 on February 15, 2006. The comments have been addressed in previous **Federal Register** Notices (FRN) based on the part to which the comment referred. Remaining comments that were not addressed in previous FRN are being addressed here. Following are five comments.

1. Comment

One comment was received from numerous small businesses stating that they believe the GSAR may unnecessarily impose an adverse significant economic impact on a substantial number of small entities and is concerned that any changes GSA might propose will fail to address the biggest problem affecting small business today. The commenter further states that GSA policies must address the major problems that continue to allow this to happen. The commenter's main concern is that there is not enough oversight at the Federal level and large businesses have been finding loopholes that result in small business contracts not getting their fair share of Federal Government small business contracts. The commenter further states that GSA policies must address the major problems that continue to allow this to happen and that GSA propose policies to ensure that 23 percent of Federal contracts go to legitimate small businesses, as the law requires.

Response

The GSA non-concurs. The comment is outside the scope of the GSAM. The U.S. Government Accountability Office has the primary oversight for fraud, abuse and loopholes. Further, the GSA is only one agency that contributes to the government-wide statutory 23 percent goal. GSA continually exceeds the 23 percent goal.

2. Comment

Another commenter recommended that the GSAR be revised to provide that contractors may apply general and administrative costs (G&A) to travel costs and other direct changes in

accordance with each vendor's approved cost accounting standards disclosure statement.

Response

The GSA non-concurs. Part 31 of the FAR does not prescribe the types of direct charges, such as travel, against which indirect costs may be applied. Rather, it provides broad discretion to an organization in selecting the bases for charging indirect costs. Travel is one of innumerable direct costs that can serve as a base for the application of indirect costs, provided that such indirect charges are in compliance with the organization's approved Cost Accounting Standards (CAS) disclosure statement. To the extent that travel is among a large number of potential bases for the charging of indirect costs, there is no compelling reason to single out travel in the FAR, much less the GSAR, as such a base.

3. Comment

Another commenter recommended that the GSAM clarify the requirement to establish and maintain Earned Value Management Systems in a manner consistent with current Department of Defense policy.

Response

The GSA non-concurs. Change 19 to the GSAM adds coverage to Part 534, Major Systems Acquisition, to provide guidance on the implementation of Earned Value Management Systems in GSA contracts.

4. Comment

Another commenter recommended revision of the GSAR to clarify the ability of agencies to enter into share-in-savings contracts.

Response

The GSA non-concurs. The statute governing share-in-savings contracts for information technology expired several years ago. Some agencies still have authority to enter into share-in-savings contracts for other purposes, such as energy savings performance contracting. Those agencies may provide guidance regarding share-in-savings contracts pertaining to their respective agencies.

5. Comment

Another commenter recommended revising the Assignment of Claims clause to facilitate contractor teaming arrangements. The commenter further stated that the clause should permit one teammate to be the lead and issue invoices and accept payment on behalf of the other teammate(s).

Response

The GSA non-concurs. This change is outside the scope of the GSAM rewrite. A change of this nature would require a change to the FAR, not the GSAM.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration certifies 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 the revisions are not considered substantive. The revisions only update and clarify existing coverage. No new definitions were added.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies; however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 3090-0027.

List of Subjects in 48 CFR Part 502

Government procurement.

Dated: July 6, 2009.

Rodney P. Lantier,

Acting Senior Procurement Executive and Acting Deputy Chief Acquisition Officer, Office of the Chief Acquisition Officer, General Services Administration.

■ Therefore, GSA amends 48 CFR part 502 as set forth below:

PART 502—DEFINITIONS OF WORDS AND TERMS

■ 1. The authority citation for 48 CFR part 502 continues to read as follows:

Authority: 40 U.S.C. 486(c).

■ 2. Revise section 502.101 to read as follows:

502.101 Definitions.

Agency competition advocate means the GSA Competition Advocate in the Office of the Chief Acquisition Officer.

Assigned counsel means the attorney employed by the Office of General Counsel (including offices of Regional Counsel) assigned to provide legal review or assistance.

Contracting activity competition advocate means the individual designated in writing by the Head of the Contracting Activity (HCA). This authority may not be redelegated. The

HCA must ensure that the designated competition advocate is not assigned any duty or responsibility that is inconsistent with the advocacy function. The identity of the designated official shall be communicated to procuring staff and the Senior Procurement Executive.

Contracting director means:

(a) Except in the Federal Acquisition Service (FAS), a director of a Central Office or Regional office Division responsible for performing contracting or contract administration functions.

(b) In FAS Central Office—

(1) The Assistant Commissioner for Assisted Acquisition Services or designee;

(2) The Assistant Commissioner for General Supplies and Services or designee;

(3) The Assistant Commissioner for Integrated Technology Services or designee;

(4) The Assistant Commissioner for Travel, Motor Vehicle and Card Services or designee; and

(5) The Assistant Commissioner for Acquisition Management or designee for support offices with contracting functions.

(c) In FAS Regions, the Assistant Regional Commissioner or designee.

Contracting officer's representative (COR), contracting officer's technical representative (COTR), or contract administrator means a Government employee designated in writing by the contracting officer to perform specific limited activities for the contracting officer, such as contract administration.

Debarred official or "suspending official" means the Senior Procurement Executive or a designee.

Head of the contracting activity means the Deputy Chief Acquisition Officer; Commissioners of the Federal Acquisition Service (FAS) or Public Buildings Service (PBS); or Regional Commissioners. The Deputy Chief Acquisition Officer serves as the HCA for Central Office contracting activities outside of FAS and PBS.

Senior procurement executive means the Deputy Chief Acquisition Officer.

Senior program official means a person reporting to, and designated by, the HCA to have overall program responsibility for determining how the agency will meet its needs. The official should have a position of authority over the participating offices. Examples include Assistant Regional Commissioners or Deputy Commissioners.

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