

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

\*\* BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (*see below*) for exact locations of all BFEs to be changed.

Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

#### ADDRESSES

##### City of Aberdeen

Maps are available for inspection at City Hall, 125 West Commerce Street, Aberdeen, MS 39730.

##### City of Amory

Maps are available for inspection at City Hall, 109 Front Street South, Amory, MS 38821.

##### Unincorporated Areas of Monroe County

Maps are available for inspection at the Monroe County Courthouse, 301 South Chestnut Street, Aberdeen, MS 39730.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 1, 2010.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2010-22762 Filed 9-10-10; 8:45 am]

**BILLING CODE 9110-12-P**

#### DEPARTMENT OF HOMELAND SECURITY

**48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053**

[Docket No. DHS-2009-0085; HSAR Case 2009-002]

**RIN 1601-AA28**

#### Homeland Security Acquisition Regulation (HSAR); Revision Initiative

**AGENCY:** Office of the Chief Procurement Officer, DHS.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DHS is proposing to amend multiple sections of the Homeland Security Acquisition Regulation (HSAR) to align existing content with the Federal Acquisition Regulation (FAR); to implement Section 695 of the Post-Katrina Emergency Management Reform Act of 2006; to clarify agency acquisition regulations; and to provide editorial corrections. The HSAR Part 3006 proposed amendment reflects the necessary implementation for the statutory change restricting the length of certain noncompetitive contracts

entered into by the Department of Homeland Security to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

**DATES:** Comments must reach the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, on or before November 12, 2010, to be considered in the formulation of the final rule.

**ADDRESSES:** Please submit written comments, identified by agency name and docket number DHS-2009-0085, by one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>. To submit comments, follow instructions on [www.regulations.gov](http://www.regulations.gov) and use docket number DHS-2009-0085.

(2) By mail to the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, ATTN: Teresa McConahie, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528.

**FOR FURTHER INFORMATION CONTACT:** Teresa McConahie, Senior Procurement Analyst, at (202) 447-0271 for clarification of content.

#### SUPPLEMENTARY INFORMATION:

- I. Request for Comments
- II. Background
- III. Discussion of Proposed Rule
- IV. Regulatory Analyses
  - A. Executive Order 12866 Assessment
  - B. Regulatory Flexibility Act
  - C. Paperwork Reduction Act
  - D. Executive Order 13132 (Federalism)
  - E. National Environmental Policy Act

#### I. Request for Comments

Interested persons are invited to participate in this rulemaking by submitting written data, views or

arguments on all aspects of this proposed rule. Comments should be organized by Homeland Security Acquisition Regulation (HSAR) Part, and address the specific section that is being commented on. All comments received will be posted without change to <http://regulations.gov>, including any personal information provided. See **ADDRESSES** above for information on how to submit comments. If you submit comments by mail, please submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you would like DHS to acknowledge receipt of comments submitted by mail, please enclose a self-addressed, stamped post card or envelope. DHS will consider all comments and material received during the comment period.

*Docket:* For access to the docket in order to read background documents or comments received, go to <http://www.regulations.gov>, follow the instructions or review the FAQs tab on the home page.

#### II. Background

This proposed rule would amend the Department's acquisition regulation which was initially issued in 2003. 68 FR 67871 (Dec. 4, 2003) as amended at 71 FR 25767 (May 2, 2006). Section 695 of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109-295, 120 Stat. 1394, 1460 (Oct. 4, 2006), directed the Secretary to promulgate regulations establishing a 150-day contract period limit for declared disaster-or-recovery-related contracts "entered into using procedures other than competitive procedures." Contracts to be covered by the proposed section 695 PKEMRA

regulation are those awarded in response to or recovery from certain events: (1) A major disaster or emergency declared by the President; (2) an uncontrolled fire that the Federal Emergency Management Agency has approved under a fire management assistance declaration; or (3) an incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support. Following is a description of events and processes leading to such declarations or designations.

#### *Stafford Act Major Disaster or Emergency Declaration*

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207 (The Stafford Act), and its implementing regulations at 44 CFR part 206 set forth a process for a Governor to request the President to declare a major disaster or emergency:

- If an event is beyond the combined response capabilities of the State and affected local governments; and
- If, based on the findings of a joint Federal-State-local Preliminary Damage Assessment (PDA), the damages are of sufficient severity and magnitude to warrant assistance under the Stafford Act. In a particularly fast-moving or clearly devastating disaster, there may be an expedited declaration, and the PDA may be deferred until after the declaration.
- The President may direct emergency assistance without a Governor's request if an incident occurs that involves a subject area that is exclusively or preeminently the responsibility of the United States. The President will consult the Governor of any affected State, if practicable.
- FEMA may provide accelerated Federal assistance and support where necessary to save lives, prevent human suffering, or mitigate severe damage, even in the absence of a specific request. The Governor of the affected State will be consulted if practicable, but this consultation shall not delay or impede the provision of such rapid assistance.

#### *Fire Management Assistance Declarations*

The Governor of a State submits the request for a fire management assistance declaration to the Regional Director while the fire is burning uncontrolled. The Regional Director gathers the State's

information, calls upon the Principal Advisor for an assessment, and develops a Regional summary and recommendation to be forwarded to the FEMA Recovery Division Director, or designee. The FEMA Recovery Division Director approves or denies the State's request based on:

The conditions that existed at the time of the State's request; Whether or not the fire or fire complex threatens such destruction as would constitute a major disaster.

There are four criteria in which the FEMA Recovery Division Director, or designee, evaluates the threat posed by a fire or fire complex:

- Threat to lives and improved property, including threats to critical facilities/infrastructure, and critical watershed areas;
- Availability of State and local firefighting resources;
- High fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System; and
- Potential major economic impact.

After rendering a determination, the FEMA Recovery Division Director, or designee, notifies the Regional Director, who in turn notifies the State.

#### *Designation of Federal Resource Coordinator in Non-Stafford Act Situations*

The Department of Homeland Security (DHS) sometimes takes action to support a Federal department or agency that has requested DHS assistance in handling a disaster that falls under the requesting department or agency's jurisdiction. Key operational units that may be activated include the National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), and Joint Field Office (JFO).

Federal departments and agencies routinely manage the response to incidents under their statutory or executive authority that do not require the assistance of other Federal agencies. When a Federal entity with primary responsibility and authority for handling an incident requires assistance, that agency may request DHS coordination of Federal multiagency assistance. In such cases, DHS coordinates assistance using the procedures and structures within the *National Response Framework*. Generally, the requesting agency funds the participation of other Federal departments and agencies in accordance with provisions of the Economy Act unless other pertinent authorities exist. To initiate Federal-to-Federal support, the requesting agency submits a request

for assistance to the DHS Executive Secretary via the National Operations Center (NOC). Requests include a summary of the situation, types and amount of resources needed, financial information, and any other appropriate details. Upon approval of the request, the Secretary of Homeland Security issues an operations order to the NOC. The NOC, through the NRCC, coordinates the activation of the appropriate Emergency Support Functions. The Secretary of Homeland Security designates a Federal Resource Coordinator (FRC) to manage Federal resource support. In circumstances requiring extraordinary coordination, the Secretary may appoint a Principal Federal Official to serve as his or her representative in the field.

The requesting agency then designates a senior official to work in coordination with the FRC as part of the Unified Coordination Group to identify and define specific support requirements. The requesting agency also provides comptrollers to the NRCC, RRCC, and JFO, as appropriate, to oversee financial management activities. An RRCC may be fully or partially activated to facilitate the deployment of resources until a JFO is established. Facilities, such as mobilization centers, may be established to accommodate personnel, equipment, and supplies. Federal agencies provide resources under interagency reimbursable agreements or their own authorities.

Although the Department considered establishing separate disaster declaration standards applicable only to section 695, the Department determined it was not wise. Declaration of a disaster under such separate 695 standards would likely confuse the public if the President or other recognized officials did not make a declaration for the same incident under the Stafford Act or other pre-existing authority.

In addition to fulfilling this Congressional mandate, this proposed rule would further align HSAR with the FAR by, among other changes, adding new departmental procedures to implement recent regulatory changes on contractor disclosures; clarifying existing content or policy, such as release of contract information; making editorial revisions of prior content, such as correcting typographical errors and Web site addresses; and making changes to other administrative information.

### **III. Discussion of Proposed Rule**

This proposed rule would amend 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053. The proposed changes to 48 CFR

part 3006 would implement section 695 of the PKEMRA. DHS proposes to change the HSAR as described below.

#### *Part 3001 Federal Acquisition Regulations System*

- Add an authority section 3001.103.
- Add one acquisition office, Office of Selective Acquisitions (OSA), to the arrangement of regulations section at HSAR 3001.105–2.
- Update information in HSAR 3001.105–3 for finding the HSAR, including accessing the HSAR online and add an internet site for accessing the Homeland Security Acquisition Manual (HSAM).
- Remove the TSA exception to HSAR in HSAR 3001.301, which was inadvertently not removed when a technical amendment (73 FR 30318, May 27, 2008) was published, and provide edits or corrections for clarity throughout HSAR 3001 subparts.

#### *Part 3002 Definitions of Words and Terms*

- Add an additional office within components—the Office of Selective Acquisitions (OSA) within the DHS Management Directorate.
- Amend the definition of “Head of the Contracting Activity (HCA)” to align with the FAR and provide the designated organization positions.
- Amend the definition of “Senior Procurement Executive (SPE)” to identify his or her responsibilities under 41 U.S.C. 414(c).
- Amend the first paragraph in the definition of “Sensitive Information” to conform it to the related HSAR clause in 3052.204–71.
- Remove the definition of “simplified acquisition threshold” because there is no longer a need for a specialized definition given the prior removal of HSAR 48 CFR 3013.7004. 73 FR 30317, 30318, May 27, 2008.

#### *Part 3003 Improper Business Practices and Personal Conflicts of Interest*

- Amend HSAR 3003.101–3 by expanding the reference to United States Office of Government Ethics regulations on the conduct and responsibilities of employees contained in 5 CFR part 2635, to OGE regulations in parts 2634 through 2641, and by eliminating the reference to a DHS replacement management directive.
- Amend paragraph (a) of HSAR 3003.204 by adding reference to FAR 3.204(a); amend paragraph (b) to make the HCA, rather than the Chief of the Contracting Office (COCO), responsible for ensuring that hearing procedures required by FAR 3.204(b) are afforded the contractor; and amend paragraph (c)

to add notification to the Office of Inspector General. References to “Government legal counsel” are changed to “DHS legal counsel” for consistency with the HSAR definition of “legal counsel” at HSAR 3002.101 and usage conventions.

- Add a new HSAR subpart 3003.10, Contractor Code of Business Ethics and Conduct, with instructions to contractors in HSAR 3003.1003 for making disclosure reports. This section lists a DHS Web site for obtaining the online, Contractor Disclosure Form provided by the DHS Office of Inspector General. HSAR section 3003.1004 paragraph (a) contains directions for the contracting officer to insert a clause in solicitations and contracts with instructions for contractor disclosure of violations. Paragraph (b) of HSAR section 3003.1004 advises contracting officers that special posters and instructions may be issued for activities using disaster recovery funds and provides the Web site for obtaining the DHS Hotline Poster described in the clause at FAR 52.203–14.

#### *Part 3004 Administrative Matters*

Revise HSAR 3004.470 content for consistency and correct publication titles for previously identified DHS Security Directive and Handbook, and remove HSAR 3004.804–1 and its \$3-million-or-less-estimated-contract-amount limitation on the use of quick closeout procedures to allow for Contracting Officer’s flexibilities for contract closeout procedures.

#### *Part 3005 Publicizing Contract Actions*

Add HSAR 3005.470, Contractor Award Announcements, Advertisements, and Releases, which addresses DHS policy that precludes contractors from referring to DHS contracts in commercial advertising in a manner that states or implies the Government approves or endorses the product or service or considers it superior to other products or services. It also incorporates the requirement from HSAR 3052.242–71 for advance approval of the contracting officer for release of contract information under contracts that involve sensitive or classified information. DHS is combining the coverage into a single clause, HSAR 3052.205–xx and its alternate, to eliminate the potential for confusion and facilitate post-award contract management.

#### *Part 3006 Competition Requirements*

Add the implementation of section 695 of the Department of Homeland Security Appropriations Act, 2007, Public Law 109–295, Title VI, which

establishes a limitation on the length of certain noncompetitive contracts. The law restricts the period of performance to 150 days for contracts above the simplified acquisition threshold that have been entered into by DHS to facilitate the response and recovery from a natural disaster, act of terrorism, or other man-made disaster, where the award was made with other than full and open competition under the FAR subpart 6.302–2, Unusual and Compelling Urgency. In order to implement the statutory requirement, DHS proposes to add: HSAR 3006.302–1, Only one responsible source and no other supplies or services will satisfy agency requirements; HSAR 3006.302–270, Unusual and Compelling Urgency; HSAR 3006.303, Justifications, HSAR 3006.303–270, Contents, and HSAR 3006.304, Approval of the Justification.

#### *Part 3009 Contractor Qualifications*

Add HSAR 3009.403 to identify the HCA as the debarring and suspending official without authority to redelegate.

#### *Part 3012 Acquisition of Commercial Items*

Remove the HSAR Part 3012 “Reserved” identification and add new content, including the prescription for the new HSAR clause, 3052.212–XX, Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items.

#### *Part 3018 Emergency Acquisitions*

Remove HSAR Part 3018 “Reserved” identification and add a reference in HSAR 3018 for Emergency Acquisitions and Available Acquisition Flexibilities.

#### *Part 3023 Environment, Conservation, Occupational Safety, and Drug-Free Workplace*

Amend HSAR Part 3023 to align with the current FAR Part 23 title and provide information regarding the DHS Sustainable Practices policy.

#### *Part 3033 Protests, Disputes, and Appeals*

Amend HSAR 3033 to add instructions that ensure protests involving classified information for the Office of Selective Acquisitions (OSA) are transmitted through appropriately cleared individuals at GAO, the United States Federal Court of Claims, or internal protest resolution officials.

#### *Part 3035 Research and Development Contracting*

Amend HSAR 3035.70 to remove section 3035.7000, add a section 3035.70–1 to clarify DHS policy regarding dissemination of non-

sensitive research information by educational institutions, and add a section 3035.70–2 to clarify the prescription for using the clause at HSAR 3052.235–70 for contracts that do not involve sensitive or classified information and to instruct the contracting officer to prepare an appropriate clause for contracts involving sensitive or classified information.

#### *Part 3036 Construction and Architect-Engineer Contracts*

Remove HSAR 3036.2, to align with FAR Case 2006–022 changes (74 FR 31557, July 1, 2009), effective July 1, 2009, which moved the associated FAR 36 content to FAR subpart 42.15.

#### *Part 3042 Contract Administration and Audit Services*

- Amend HSAR 3042.1502 to identify the Contractors Performance Assessment Reporting System (CPARS) and its modules, Construction Contractor Appraisal Support System (CCASS) for construction contracts and Architect-Engineer Contract Administration Support System (ACASS) for architect-engineer contracts to report contractor performance. CPARS replaces the National Institute of Health's CPS as the designated system for DHS reporting on contractor performance.

- Delete HSAR 3042.202–70 which prescribed the clause at HSAR 3052.242–71. The changes at HSAR 3005.470, 3035.70, 3052.205–XX and 3052.235–70 provide coverage on dissemination of contract information.

#### *Part 3045 Government Property*

Remove the content in HSAR Part 3045 which is obsolete as a result of the FAR Part 45 rewrite. (72 FR 27364, May 15, 2007)

#### *Part 3052 Solicitation Provisions and Contract Clauses*

- Add the new clause at HSAR 3052.203–XX Instructions for Contractor Disclosure of Violations.

- Amend HSAR clause 3052.204–71 to provide typographical corrections and remove the Department of State publication which is no longer published and replace with appropriate guidance.

- Add the new clause at HSAR 3052.205–XX Advertisements, Publicizing Awards, and Releases, and its Alternate I.

- Add the new clause HSAR 3052.212–XX, Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items.

- Amend clause HSAR 3052.216–71, Determination of Award Fee to delete the content addressing rollover of award fee amounts from one period to subsequent periods to align with the OMB guidance, Appropriate Use of Incentive Contracts issued December 4, 2007.

- Amend the reference to the prescription of HSAR 3052.235–70 for consistency with changes to HSAR 3035.70–2.

- Delete the clauses at HSAR 3052.242–71 and 3052.245–70. Procedures for dissemination of information will be incorporated into HSAR 3052.205–XX. HSAR 3052.245–70 clause is rendered obsolete with the Part 3045 removal.

- Add a note to HSAR 3052.101 identifying where the HSAR Provision and Clause matrix can be found on the DHS Web site at <http://www.dhs.gov/xopnbniz/> under Policy and Regulations, Homeland Security Acquisition Regulation (HSAR).

Other technical corrections include editing DHS Form numbers in the HSAR regulatory text in Parts 3004, 3022, and 3053 to conform to the DHS published forms numbers and removal of HSAR 3053.245–70, Report of Government property to conform to the removal of Part 3045 content.

### **IV. Regulatory Analyses**

#### *A. Executive Order 12866 Assessment*

This is not a significant regulatory action under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. The Office of Management and Budget has not reviewed it under the Order. This proposed rule is not a major rule under 5 U.S.C. 804.

#### *B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the term “small entities” comprises of small businesses, not for profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000. DHS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because the rule applies to internal approval procedures, supplements the Federal Acquisition Regulations, and is intended to clarify or eliminate existing agency acquisition regulations and policies. DHS has not performed an initial regulatory flexibility analysis. DHS invites comments from small entities and other

interested parties. Such comments should be submitted separately and should cite HSAR Case 2009–002. See **ADDRESSES** above for information on how to submit comments.

#### *C. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Budget and Management (OMB), for review and approval any reporting requirements inherent in a rule.

The Paperwork Reduction Act applies to this proposed rule. However, the information collection requirements imposed by the provisions 3052.205–XX and 3052.212–XX are currently covered by the approved information collection requirements for provisions (OMB Clearance numbers 1600–0003, Post-Contract Award Information, and 1600–0005, Solicitation of Proposal Information for Award of Public Contracts). DHS considers that any changes due to the use of these clauses will be within the estimated hours for the existing approved OMB clearance. The clause at 3052.203–XX does not create a new information collection requirement. It provides a format for contractors to use when making a disclosure under FAR 3.1003 and 52.203–13. The FAR disclosure requirements are approved under OMB Clearance Number 9000–0164.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Use of these two information collections, 1600–0003 and 1600–0005, has been approved by OMB until January 31, 2012, and October 31, 2011, respectively.

#### *D. Executive Order 13132 (Federalism)*

The proposed rule would not have substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, DHS has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism impact statement.

#### *E. National Environmental Policy Act*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 which guides the Department in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have made a preliminary determination this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule, which does not involve any extraordinary circumstances, appears to be categorically excluded under paragraphs A3(b) and A3(d) in Table I of Appendix A of Directive 023-01 because it implements legislation and amends acquisition regulations without changing the regulations' environmental effect. We seek comments or information pertinent to these determinations.

**List of Subjects in 48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052 and 3053**

Government procurement.

Dated: August 26, 2010.

**Richard K. Gunderson,**

*Acting Chief Procurement Officer,  
Department of Homeland Security.*

Accordingly, DHS amends 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3012, 3018, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052, and 3053 as follows:

1. The authority citation for 48 CFR parts 3001, 3002, 3003, 3004, 3005, 3006, 3009, 3022, 3023, 3033, 3035, 3036, 3042, 3045, 3052 and 3053 continues to read as follows:

**Authority:** 5 U.S.C. 301–302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

**PART 3001—FEDERAL ACQUISITION REGULATION SYSTEM**

2. Amend Subpart 3001.1 by adding section 3001.103 to read as follows:

**3001.103 Authority.**

The HSAR is issued by DHS's Chief Procurement Officer, who is the Senior Procurement Executive (SPE), see 41 U.S.C. 414 and DHS Delegation Number 0700, under authority of 5 U.S.C. 301–302, the Office of Federal Procurement Policy Act, Public Law 93–400, 88 Stat. 796 (1974), including sections 22 and 25, 41 U.S.C. 418b and 421, and (FAR) 48 CFR part 1, subpart 1.3.

3. Amend section 3001.105–2 by revising paragraph (a) to read as follows:

**3001.105–2 Arrangement of regulations.**

(a) *General.* The HSAR, which encompasses both Department-wide and Component-unique guidance, conforms to the arrangement and numbering system prescribed by (FAR) 48 CFR 1.105–2. Guidance that is unique to a Component contains the organization's

acronym or abbreviation directly following the title. The following acronyms and abbreviations apply:

DHS Management (MGMT), including the Office of Procurement Operations (OPO) and the Office of Selective Acquisitions (OSA);  
Federal Emergency Management Agency (FEMA);  
Federal Law Enforcement Training Center (FLETC);  
Transportation Security Administration (TSA);  
U.S. Coast Guard (USCG);  
U.S. Customs and Border Protection (CBP);  
U.S. Immigration and Customs Enforcement (ICE); and  
U.S. Secret Service (USSS).

4. Revise section 3001.105–3 to read as follows:

**3001.105–3 Copies.**

Official versions of the HSAR are available in the Code of Federal Regulations, as supplemented and revised from time to time by the **Federal Register**, both of which are available from the Government Printing Office in paper and electronic form. The HSAR is also available in electronic form at <http://www.dhs.gov>. A convenient but unofficial up-to-date version of the HSAR is also available from the Government Printing office at <http://www.gpoaccess.gov/ecfr/index.html>. The Homeland Security Acquisition Manual (HSAM), which complements the HSAR, can also be found at <http://www.dhs.gov>.

5. In section 3001.301, revise paragraph (a)(1) to read as follows:

**3001.301 Policy.**

(a)(1) The HSAR is issued for Departmental guidance according to the policy cited in (FAR) 48 CFR 1.301. The HSAR establishes uniform Department of Homeland Security policies and procedures for all acquisition activities within the Department of Homeland Security. Component supplemental acquisition regulations to be inserted in the HSAR as a HSAR supplement regulation must be reviewed and approved by the Chief Procurement Officer (CPO) before the CPO authorizes and submits the proposed content for publication in the Federal Register under (FAR) 48 CFR part 1, subparts 1.3 and 1.5.

\* \* \* \* \*

**3001.301–70 [Amended]**

6. Amend section 3001.301–70 in paragraph (a) introductory text by removing “20598” and adding “20528” in its place.

7. In section 3001.301–71, revise paragraph (c) to read as follows:

**3001.301–71 Effective Date.**

\* \* \* \* \*

(c) Contracting officers must modify existing contracts to include HSAR changes where required to do so by law. Otherwise, contracting officers should consider using the Changes clause, where feasible, or other suitable authority, to modify existing contracts to include HSAR changes.

8. In section 3001.303, revise paragraph (a)(3) to read as follows:

**3001.303 Publication and codification.**

(a) \* \* \*

(3) Coverage in HSAR chapter 30 that supplements the FAR will use part, subpart, section, and subsection numbers ending in “70” through “89”. A series of numbers beginning with “70” is used for provisions and clauses (*e.g.*, (HSAR) 48 CFR 3001.301–70).

\* \* \* \* \*

**3001.304 [Amended]**

9. Amend section 3001.304 in paragraph (a) by adding the words “Department of” before the words “Homeland Security” in the first sentence.

**3001.403 [Amended]**

10. Amend section 3001.403 by removing the word “deviation” in the first sentence and adding the word “deviations” in its place.

**3001.602–3 [Amended]**

11. Amend section 3001.602–3 by removing the words “Department of Homeland Security (DHS)” in the first sentence and adding in their place “DHS”.

**PART 3002—DEFINITIONS OF WORDS AND TERMS**

12. Amend section 3002.101 by removing the definition of “Simplified acquisition threshold” and revising the definitions of “Component”, “Head of the Contracting Activity (HCA)”, “Senior Procurement Executive (SPE)”, and the introductory paragraph of the “Sensitive Information” definition to read as follows:

**3002.101 Definitions.**

\* \* \* \* \*

*Component* means the following entities for purposes of this chapter:

(1) DHS Management (MGMT), including the Office of Procurement Operations (OPO) and the Office of Selective Acquisitions (OSA);

(2) Federal Emergency Management Agency (FEMA);

(3) Federal Law Enforcement Training Center (FLETC);  
 (4) Transportation Security Administration (TSA);  
 (5) U.S. Coast Guard (USCG);  
 (6) U.S. Customs and Border Protection (CBP);  
 (7) U.S. Immigration and Customs Enforcement (ICE); and  
 (8) U.S. Secret Service (USSS).

\* \* \* \* \*

*Head of the Contracting Activity (HCA)* means the official who has overall responsibility for managing the contracting activity. For DHS, the HCAs are:

(1) Director, Office of Procurement Operations (OPO);  
 (2) Director, Office of Selective Acquisitions (OSA);  
 (3) Director, Procurement (FEMA)  
 (4) Chief, Procurement Division (FLETC);  
 (5) Assistant Administrator for Acquisition (TSA);  
 (6) Director of Contracting and Procurement (USCG);  
 (7) Executive Director, Procurement (CBP);  
 (8) Director, Office of Acquisition Management (ICE); and  
 (9) Chief, Procurement Operations (USSS).

\* \* \* \* \*

*Senior Procurement Executive (SPE)* for the Department of Homeland Security means the DHS Chief Procurement Officer (CPO), who is the individual appointed pursuant to 41 U.S.C. 414(c) to be responsible for management direction of the procurement system of DHS, including implementation of the unique procurement policies, regulations, and standards of DHS.

*Sensitive Information*, as used in this Chapter, means any information which if lost, misused, disclosed, or, without authorization, is accessed or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

\* \* \* \* \*

#### **3002.270 [Amended]**

13. Amend the abbreviation list entry in section 3002.270 by removing "HCA Head of Contracting Activity" and adding in its place "HCA Head of the Contracting Activity".

### **PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

14. Revise section 3003.101–3 to read as follows:

#### **3003.101–3 Agency regulations.**

The United States Office of Government Ethics has promulgated regulations applicable to the entire Executive Branch that address the conduct matters referenced in (FAR) 48 CFR 3.101–3. See 5 CFR vol. 3, ch. XVI, subch. B. The Department of Homeland Security has also issued Management Directive 0480.1, Ethics/Standards of Conduct.

15. Revise section 3003.204 to read as follows:

#### **3003.204 Treatment of violations.**

(a) The HCA is the official designated to make the determination under (FAR) 48 CFR 3.204(a) whether a gratuities violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of the DHS legal counsel should be sought to determine whether the CPO should designate an alternate decision maker.

(b) The HCA shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are afforded to the contractor. DHS legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred the HCA shall consult with DHS legal counsel regarding appropriate action and notify the Office of Inspector General.

16. Add Subpart 3003.10 to read as follows:

#### **Subpart 3003.10—Contractor Code of Business Ethics and Conduct**

Sec.

3003.1003 Requirements.

#### **3003.1004 Contract clauses.**

#### **Subpart 3003.10—Contractor Code of Business Ethics and Conduct**

#### **3003.1003 Requirements.**

(a) *Contractor requirements.* Contractors making written disclosures under the clause at (FAR) 49 CFR 52.203–13 must use the electronic form at [http://www.dhs.gov/xoig/gc\\_1233236886677.shtm](http://www.dhs.gov/xoig/gc_1233236886677.shtm). Contractors making disclosures under contracts which do not contain the clause at (FAR) 48 CFR 52.203–13 are encouraged to also use this electronic form.

#### **3003.1004 Contract clauses.**

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.203–XX, Instructions for Contractor Disclosure of Violations, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.203–13.

(b)(1) There may be different or additional DHS OIG hotline posters for specific events. When the DHS OIG publishes a specific event hotline poster, DHS will notify the Office of Federal Procurement Policy for further instructions on dissemination.

(2)(ii) The contracting officer should complete paragraph (b)(3) of the clause at (FAR) 48 CFR 52.203–14 by identifying the Web site from which the hotline poster can be obtained, [http://www.dhs.gov/xoig/assets/DHS\\_OIG\\_Hotline.pdf](http://www.dhs.gov/xoig/assets/DHS_OIG_Hotline.pdf), or the Web site from which the Disaster Fraud Hotline poster can be obtained for use in contracts involving disaster relief operations, [http://www.dhs.gov/xoig/assets/DHS\\_OIG\\_Hotline\\_Fraud.pdf](http://www.dhs.gov/xoig/assets/DHS_OIG_Hotline_Fraud.pdf).

### **PART 3004—ADMINISTRATIVE MATTERS**

17. Amend section 3004.470–2 by revising paragraph (a) to read as follows:

#### **3004.470–2 Policy.**

(a) DHS's policies and procedures on contractor personnel security requirements are set forth in various management directives (MDs), Directives, and Instructions. MD 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information describes how contractors must handle sensitive but unclassified information. The DHS Sensitive Systems Policy Directive 4300A and the DHS 4300A Sensitive System Handbook, provide the policies and procedures on security for Information Technology resources. Compliance with these policies and procedures, as amended, is required.

\* \* \* \* \*

#### **3004.470–3 [Amended]**

18. Amend section 3004.470–3 in paragraph (b) in the second sentence by removing the word "Officers" and adding "officers" in its place.

#### **3004.804–1 [Removed]**

19a. Remove section 3004.804–1.

19b. In section 3004.804–570, revise paragraphs (a)(1) through (a)(3) to read as follows:

#### **3004.804–570 Supporting closeout documents.**

(a) \* \* \*

(1) DHS Form 700–3, Contractor's Release (e.g., see (FAR) 48 CFR 52.216–7);

(2) DHS Form 700–2, Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts (e.g., see (FAR) 48 CFR 52.216–7);

(3) DHS Form 700–1, Cumulative Claim and Reconciliation Statement (e.g., see (FAR) 48 CFR 4.804–5(a)(13); and

\* \* \* \* \*

## PART 3005—PUBLICIZING CONTRACT ACTIONS

20. Amend Subpart 3005.4 by adding sections 3005.470, 3005.470–1, and 3005.470–2 to read as follows:

### 3005.470 Contractor award announcements, advertisements, and releases.

#### 3005.470–1 Policy.

(a) DHS policy requires its contracting officers to restrict DHS contractors from referring to its DHS contract(s) in commercial advertising in a manner that states or implies the Government approves or endorses the contractor's products or services or considers them superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

(b) The Department's contractors share the responsibility for protecting sensitive and classified information related to efforts under their contracts. For any contract that involves sensitive or classified information, prior to the release of any contract award announcement, advertisement, or other release of information pertaining to the contract, the contractor must obtain the approval of the responsible contracting officer.

#### 3005.470–2 Contract clauses.

(a) Insert the clause at (HSAR) 48 CFR 3052.205–XX, Advertisements, Publicizing Awards, and Releases, in all solicitations and contracts that exceed the simplified acquisition threshold.

(b) Except for research contracts with educational institutions, if the contract involves sensitive or classified information, use the clause with its Alternate I. For research contracts with educational institutions, see (HSAR) 48 CFR 3035.70–2(b).

## PART 3006—COMPETITION REQUIREMENTS

21. Amend subpart 3006.3 by adding sections 3006.302–1, 3006.302–270, 3006.303, 3006.303–270, 3006.304, and 3006.304–70 to read as follows:

### Subpart 3006.3—Other Than Full and Open Competition

\* \* \* \* \*

3006.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.

3006.302–270 Unusual and compelling urgency.

\* \* \* \* \*

3006.303 Justifications.

3006.303–270 Content.

3006.304 Approval of justification.

3006.304–70 DHS Approval of justification.

#### 3006.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(b)(4) The contracting officer may rely on this exception in the case where only one source is available to provide additional units or replacement items under a specific make and model requirement, but only where the CPO has determined in accordance with the agency's standardization program that only the specific make(s) and model(s) will satisfy the agency's needs.

#### 3006.302–270 Unusual and compelling urgency.

(c)(3) For contract awards to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster, that relies on this exception, the period of performance shall be limited to the minimum period necessary to meet the urgent and compelling requirements of the work to be performed and to enter into another contract for the required goods or services through the use of competitive procedures, but in no event shall the period of performance exceed 150 days, unless the Head of the Contracting Activity (or higher approval authority if required by (FAR) 48 CFR 6.304 or DHS procedures) determines that exceptional circumstances apply, approving the justification as set forth in (HSAR) 48 CFR 3006.304. The limitation on the period of performance applies to contracts awarded in response to, or to recovery from:

(i) A major disaster or emergency declared by the President under Title IV or Title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5207) (see <http://www.fema.gov/news/disasters.fema#sev2> for a list of declarations);

(ii) An uncontrolled fire or fire complex, threatening such destruction as would constitute a major disaster, and for which the Federal Emergency Management Agency has approved a fire management assistance declaration in accordance with regulatory criteria at 44 CFR 204.21 (see <http://www.fema.gov/>

[news/disasters.fema#sev2](http://www.fema.gov/news/disasters.fema#sev2) for a list of declarations); or

(iii) An incident for which the National Operations Center (NOC), through the National Response Coordination Center (NRCC), coordinates the activation of the appropriate Emergency Support Functions and the Secretary of Homeland Security has designated a Federal Resource Coordinator (FRC) to manage Federal resource support.

\* \* \* \* \*

#### 3006.303 Justifications.

#### 3006.303–270 Content.

(a)(9)(iv) For a proposed contract subject to the restrictions of (HSAR) 48 CFR 3006.302–270(c)(3) and where (FAR) 48 CFR 6.302–2 is cited as the authority, the exceptional circumstances allowing for an award for a period of performance in excess of 150 days.

#### 3006.304 Approval of justification.

#### 3006.304–70 DHS Approval of justification.

A justification for other than full and open competition that cites (FAR) 48 CFR Part 6.302–2 as its authority shall be approved in writing by the HCA (unless a higher approval authority is required in accordance with (FAR) 48 CFR Part 6.304 or DHS procedures) for a proposed DHS contract to facilitate the response to or recovery from a natural disaster, act of terrorism, or other man-made disaster with a period of performance in excess of 150 days. The justification should make plain the exceptional circumstances that justify the duration of the contract. This authority may not be redelegated by the HCA.

## PART 3009—CONTRACTOR QUALIFICATIONS

22. Amend subpart 3009.4 by adding section 3009.403 to read as follows:

#### 3009.403 Definitions.

*Debaring official* means the Head of the Contracting Activity (HCA). The authority to impose debarment may not be redelegated by the HCA.

*Suspending official* means the HCA. The authority to impose suspension may not be redelegated by the HCA.

23. Add part 3012 to read:

## PART 3012—ACQUISITION OF COMMERCIAL ITEMS

### Subpart 3012.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items



Sec.

3012.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

**Authority:** 5 U.S.C. 301–302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

**3012.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) Solicitation provisions and contract clauses. Insert (HSAR) 48 CFR 3052.212–70, Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items, in any solicitation or contract for commercial items when any of the provisions or clauses listed therein applies and where incorporation by reference of each selected provision or clause is, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause.

24. Add part 3018 to read:

**PART 3018—EMERGENCY ACQUISITIONS**

**Subpart 3018.1—Available Acquisition Flexibilities**

Sec.

3018.109 Priorities and allocations.

**Authority:** 5 U.S.C. 301–302, 41 U.S.C. 418b(a) and (b), 41 U.S.C. 414, 48 CFR part 1, subpart 1.3, and DHS Delegation Number 0700.

**3018.109 Priorities and allocations.**

DHS Components may assign priority ratings on contracts and orders as authorized by the Defense Priorities and Allocation System (DPAS). (See (HSAR) 48 CFR 3011.602.)

**PART 3022—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

25. Amend section 3022.406–9(c)(1) by removing “DHS Form 0700–04” and adding in its place “DHS Form 700–4”.

**PART 3023—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

26. Amend Part 3023 by revising the heading to read as set forth above.

\* \* \* \* \*

**3023.1002 [Removed]**

27a. Amend subpart 3023.10 by removing section 3023.1002.

27b. Add section 3023.1004 to read as follows:

**3023.1004 Requirements.**

DHS Directive 023–02 Environmental Compliance Program provides guidance and direction for compliance with environmental laws, regulations and executive orders. DHS Directive 025–01, Sustainable Practices for Environmental, Energy and Transportation, provides guidance and direction for compliance with green purchasing and other sustainable practices contained in Executive Order 13423. Contracting officers shall ensure that solicitations and contracts contain appropriate sustainable practices requirements, provisions and clauses. Contractors shall support the DHS Environmental Policy by taking appropriate actions to eliminate or reduce their impacts on the environment.

**PART 3033—PROTESTS, DISPUTES, AND APPEALS**

28. Amend part 3033 by adding subpart 3033.1 to read as follows:

**Subpart 3033.1—Protests**

Sec.

3033.102 General.

3033.102–90 Protests on classified solicitations (OSA).

**3033.102–90 Protests on classified solicitations (OSA).**

To ensure that classified information is protected and appropriate security measures are coordinated as required, protests involving classified solicitations issued by the Office of Selective Acquisitions (OSA) shall be submitted directly to the contracting officer for further transmission to the GAO, the United States Court of Federal Claims, or for internal resolution in the case of agency protests. Specific instructions will be provided in Section L of the solicitation.

**PART 3035—RESEARCH AND DEVELOPMENT CONTRACTING**

**3035.7000 [Removed]**

29a. Amend subpart 3035.70 by removing section 3035.7000.

29b. Add sections 3035.70–1 and 3035.70–2 to read as follows:

**3035.70–1 Policy.**

The Department of Homeland Security (DHS) desires widespread dissemination of the results of funded non-sensitive research. The Contractor, therefore, may publish (subject to the provisions of the “Data Rights” and “Patent Rights” clauses of the contract) research results in professional journals, books, trade publications, or other appropriate media.

**3035.70–2 Contract clause.**

(a) The contracting officer shall use the clause at (HSAR) 48 CFR 3052.235–70, Dissemination of Information—Educational Institutions, in contracts with educational institutions for research that is not sensitive or classified.

(b) If the contract involves sensitive or classified research, the contracting officer shall prepare and insert a Special Contract Requirement that conditions dissemination upon the approval of a designated Government official.

**PART 3036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

**3036.201 [Removed]**

30. Remove section 3036.201.

**PART 3042—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

**Subpart 3042.2—[Removed]**

31. Remove subpart 3042.2.

32. Revise section 3042.1502 to read as follows:

**3042.1502 Policy.**

(a) Components shall use the Contractor Performance Assessment Reporting System (CPARS) or other performance reporting system as designated by the DHS Chief Procurement Officer for evaluating contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 42.1503.

(e) Components shall use the *Construction Contractor Appraisal Support System* (CCASS) module of CPARS, or other performance reporting system as designated by the DHS Chief Procurement Officer for evaluating construction contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 42.1503.

(f) Components shall use the Architect-Engineer Contract Administration Support System (ACASS) module of CPARS or other performance reporting system as designated by the DHS Chief Procurement Officer for evaluating architect-engineer contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 42.1503.

**PART 3045—[REMOVED AND RESERVED]**

33. Under the authority of 5 U.S.C. 301–302, part 3045 is removed and reserved.



## PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

34. Amend section 3052.101 by adding the following note at the end of the section to read as follows:

### 3052.101 Using Part 3052.

\* \* \* \* \*

**Note to 3052.101:** The solicitation provisions and contract clauses matrix referencing all HSAR provisions and clauses is available at <http://www.dhs.gov/xopnbiz/> under Policy and Regulations, Homeland Security Acquisition Regulation (HSAR).

35. Amend subpart 3052.2 by adding 3052.203–XX to read:

### 3052.203–XX Instructions for Contractor Disclosure of Violations.

As prescribed in (HSAR) 48 CFR 3003.1004(a), insert the following clause:

#### Instructions for Contractor Disclosure of Violations

(MON XXXX)

When making a written disclosure under the clause at FAR 52.213–13, paragraph (3), the Contractor shall use the form at [http://www.dhs.gov/xoig/gc\\_1233236886677.shtm](http://www.dhs.gov/xoig/gc_1233236886677.shtm) and submit the disclosure electronically to the Department of Homeland Security Office of Inspector General. The Contractor shall provide a copy of the disclosure to the Contracting Officer by e-mail or facsimile on the same business day as the submission to the Office of Inspector General. The Contractor shall provide the Contracting Officer a concurrent copy of any supporting materials submitted to the Office of Inspector General.

36–37. Amend section 3052.204–71:

a. By capitalizing the first letter of every occurrence of the words “contractor” and “government” and by revising paragraph (a) of the clause; and

b. In Alternate I by capitalizing the first letters of every occurrence of the words “contractor” and “contracting officer” in the alternate content and by revising paragraph (k)(1) of the alternate.

The revisions read as follows:

### 3052.204–71 Contractor employee access. (MON XXXX)

(a) *Sensitive Information*, as used in this clause, means any information, which if lost, misused, disclosed, or, without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

\* \* \* \* \*

### “Alternate I (MON XXXX)”

\* \* \* \* \*

(k) \* \* \*

(1) The individual must be a legal permanent resident of the U.S., citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort;

\* \* \* \* \*

38. Amend subpart 3052.2 by adding 3052.205–XX to read as follows:

### 3052.205–XX Advertisements, Publicizing Awards, and Releases.

As prescribed in (HSAR) 48 CFR 3005.470–2, insert the following clause:

#### Advertisements, Publicizing Awards, and Releases

(MON XXXX)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services.

(End of clause)

Alternate I (MON XXXX). If a contract involves sensitive or classified information, designate the paragraph in the base clause as (a) and add the following paragraph (b) to the clause:

(b) All advertisements, releases, announcements, or other publication regarding this contract or the agency programs and projects covered under it, or the results or conclusions made pursuant to performance, must be approved by the Contracting Officer. Under no circumstances shall the Contractor, or anyone acting on behalf of the Contractor, refer to the supplies, services, or equipment furnished pursuant to the provisions of this contract in any publicity, release, or commercial advertising without first obtaining explicit written consent to do so from the Contracting Officer.

(End of clause)

39. Amend subpart 3052.2 by adding section 3052.212–XX to read as follows:

### 3052.212–XX Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items

As prescribed in (HSAR) 48 CFR 3012.301, insert the following clause:

#### Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items

(MON XXXX)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following

provisions and clauses are incorporated by reference: [The Contracting Officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the list. The Contracting Officer may add the date of the provision or clause if desired for clarity.]

(a) *Provisions.*

3052.209–72 Organizational Conflicts of Interest.

3052.219–72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.

(b) *Clauses.*

3052.203–XX Instructions for Contractor Disclosure of Violations.

3052.204–70 Security Requirements for Unclassified Information Technology Resources.

3052.205–XX Advertisement, Publicizing Awards, and Releases Alternate I

3052.204–71 Contractor Employee Access

3052.209–73 Limitation on Future Contracting.

3052.215–70 Key Personnel or Facilities.

3052.216–70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.

3052.216–71 Determination of Award Fee.

3052.216–72 Performance Evaluation Plan.

3052.216–73 Distribution of Award Fee.

3052.217–91 Performance. (USCG)

3052.217–92 Inspection and Manner of Doing Work. (USCG)

3052.217–93 Subcontracts. (USCG)

3052.217–94 Lay Days. (USCG)

3052.217–95 Liability and Insurance. (USCG)

3052.217–96 Title. (USCG)

3052.217–97 Discharge of Liens. (USCG)

3052.217–98 Delays. (USCG)

3052.217–99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)

3052.217–100 Guarantee. (USCG)

3052.219–70 Small Business

Subcontracting Plan Reporting.

3052.219–71 DHS Mentor Protégé Program.

3052.228–70 Insurance.

3052.228–90 Notification of Miller Act Payment Bond Protection. (USCG)

3052.228–91 Loss of or Damage to Leased Aircraft. (USCG)

3052.228–92 Fair Market Value of Aircraft. (USCG)

3052.228–93 Risk and Indemnities. (USCG)

3052.236–70 Special Provisions for Work at Operating Airports.

3052.242–70 Contracting Officer's Technical Representative.

3052.247–70 F.o.B. Origin Information.

Alternate I

Alternate II

3052.247–71 F.o.B. Origin Only.

3052.247–72 F.o.B. Destination Only.

(End of clause)

**3052.216–71 [Amended]**

40. Remove paragraph (d) of clause 3052.216–71, Determination of Award Fee.

**3052.235–70 [Amended]**

41. Amend section 3052.235–70 by removing the words “48 CFR 3035.7000” in the introductory paragraph and adding in their place the reference to “48 CFR 3035.70–2.”

**3052.242–71 [Removed]**

42. Remove section 3052.242–71.

**3052.245–70 [Removed]**

43. Remove section 3052.245–70.

**PART 3053—FORMS**

44a. Amend section 3053–204–70 by revising paragraphs (a) through (c) to read as follows:

**3053.204–70 Administrative matters.**

\* \* \* \* \*

(a) DHS Form 700–1, Cumulative Claim and Reconciliation Statement. (See (HSAR) 48 CFR 3004.804–570(a)(1).)

(b) DHS Form 700–2, Contractor’s Assignment of Refunds, Rebates, Credits and Other Amounts. (See (HSAR) 48 CFR 3004.570(a)(2).)

(c) DHS Form 700–3, Contractor Release. (See (HSAR) 48 CFR 3004.804–570(a)(3).)

**3053.222–70 [Amended]**

44b. Amend section 3053.222–70 by removing “DHS Form 0700–04” in the

last line and adding “DHS Form 700–4” in its place.

**3053.303 [Amended]**

44c. Amend section 3053.303 by removing “DHS Form 0700–01”, “DHS Form 0700–02”, “DHS Form 0700–03”, and “DHS Form 0700–04” from the table in the “Form No.” column, and adding in their place, respectively “DHS Form 700–1”, “DHS Form 700–2”, “DHS Form 700–3”, and “DHS Form 700–4”; and by removing the whole entry for “Contractor Report of Government Property/DHS Form 0700–05.”

**3053.245–70 [Removed and Reserved]**

45. Remove and reserve section 3053.245–70.

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