

§ 67.4 [Corrected]

On page 78656, in § 67.4, in the table Maui County, Hawaii, the headings are corrected to read as set forth below:

| Flooding source(s) | Location of referenced elevation** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in feet (LTD) | | Communities affected |
|----------------------------|------------------------------------|---|----------|----------------------|
| | | Effective | Modified | |
| Maui County, Hawaii | | | | |

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DEPARTMENT OF THE INTERIOR**Office of the Secretary**

48 CFR Parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452

RIN 1093-AA13

Acquisition Regulation Miscellaneous Changes

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior (DOI) is proposing to revise the Department of the Interior Acquisition Regulation (DIAR) in order to make minor corrections to DOI acquisition procedures to be consistent with the Federal Acquisition Regulation (FAR), and to add a new clause covering contract administration roles and responsibilities. Some DIAR coverage is being revised and obsolete material is being removed.

DATES: Submit comments by May 23, 2011.

ADDRESSES: You may submit comments on the rulemaking through the Federal eRulemaking Portal at <http://www.regulations.gov>. Please use the Regulation Identifier Number (RIN) 1093-AA13 in your message. Follow the instructions on the Web site for submitting comments.

FOR FURTHER INFORMATION CONTACT: Tiffany A. Schermerhorn, Senior Procurement Analyst, Office of Acquisition and Property Management, Office of the Secretary, telephone (202) 513-0747, fax (202) 219-4244, or e-mail tiffany_schermerhorn@ios.doi.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

This rule will revise the Department of the Interior Acquisition Regulation (DIAR) in order to update references to other federal and Departmental directives, remove obsolete material and references, and add a clause implementing agency policy regarding contract administration. The new clause notifies contractors of their roles and responsibilities in complying with technical direction given by authorized representatives of the contracting officer.

II. Procedural Matters**1. Public Availability of Comments****Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

2. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. The costs associated with these revisions will be strictly internal and borne entirely by the Federal government. These minimal costs will benefit taxpayers by making the acquisition process more efficient and transparent. This rule will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

3. The Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements on small entities.

4. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

6. Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this proposed rule does not have significant takings implications. This rule does not impose conditions or limitations on the use of any private property; consequently, a takings implication assessment is not required.

7. Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have Federalism implications. This rule does not substantially or directly affect the relationship between Federal and State governments or impose costs on States or localities. A Federalism Assessment is not required.

8. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
(b) Meets the criteria of section 3(b)(2) of the Order.

9. Paperwork Reduction Act of 1995

This rule does not contain an information collection, as defined by the Paperwork Reduction Act.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

11. Data Quality Act

In developing this rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554).

12. Effects on the Energy Supply

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

13. Clarity of this Regulation

We are required by Executive Orders 12866 and 12988 and by the

Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
(b) Use the active voice to address readers directly;
(c) Use clear language rather than jargon;
(d) Be divided into short sections and sentences; and
(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the "ADDRESSES" section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, which sections where you feel lists or tables would be useful, etc.

List of Subjects in 48 CFR Parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452

Government procurement.

Dated: March 7, 2011.

John C. Henderson, Acting Assistant Secretary for Policy, Management and Budget.

For the reasons set out in the preamble, we propose to amend Chapter 14 of Title 48 Code of Federal Regulations, parts 1401, 1402, 1415, 1417, 1419, 1436, and 1452 as follows:

1. The authority citation for 48 CFR Chapter 14 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 301.

PART 1401—DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION SYSTEM

2. Revise § 1401.670 to read as follows:

§ 1401.670 Contracting officers' representatives.

When a CO elects to appoint an individual to act as an authorized representative in the administration of a contract, the CO must notify the contractor of the COR appointment in writing, and provide the name and contact information of the COR.

3. Revise § 1401.670-1 to read as follows:

§ 1401.670-1 Contract clause.

Insert the clause at 1452.201-70 in solicitations and contracts under which a COR will be appointed.

PART 1402—DEFINITIONS OF WORDS AND TERMS

4. In § 1402.170, remove the entry "BUDS Business Utilization Development Specialist" from the list, and add to the list the entry "SBS Small Business Specialist" after "SBA Small Business Administration."

PART 1415—CONTRACTING BY NEGOTIATION

5. In § 1415.404-4, remove the reference to "FAR 15.905" in paragraph (a), and add in its place "FAR 15.404-4, and remove paragraph (c).

PART 1417—SPECIAL CONTRACTING METHODS

6. Remove Subpart 1417.5.

PART 1419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS

7. In § 1419.202-70, revise the section heading, and revise paragraph (h) to read as follows:

§ 1419.202-70 Acquisition screening and SBS recommendations.

* * * * *

(h) The CO shall document the rationale for not accepting a SBS recommendation on DI Form 1886, under "Notes." (See FAR 19.202.) Disagreements between the CO and the SBS concerning the decision to use a set aside or the 8(a) program shall be resolved by the BPC. The BPC shall annotate the resolution, with signature, in the "Notes" section of the form. The BPC may consult with the OSDDBU to obtain assistance in resolving the disagreement.

PART 1436—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

8. In § 1436.270-1, in paragraph (b), remove the table entitled "Table 1436-1—Uniform Contract Format" and add in its place the following table:

§ 1436.270-1 Uniform contract format.

* * * * *

TABLE 1436-1—UNIFORM CONTRACT FORMAT

Table with 2 columns: Section and Title. Row 1: Section A, Title Solicitation/contract form. Row 2: Section B, Title Bid schedule.

TABLE 1436-1—UNIFORM CONTRACT FORMAT—Continued

| Section | Title |
|--|--|
| C | Specifications/Drawings. |
| D | Packaging and marking. |
| E | Inspection and acceptance. |
| F | Deliveries or performance. |
| G | Contract administration data. |
| H | Special contract requirements. |
| Part II—Contract Clauses | |
| I | Contract clauses. |
| Part III—List of Documents, Exhibits, and Other Attachments | |
| J | List of attachments. |
| Part IV—Representations and Instructions | |
| K | Representations, certifications, and other statements of offerors. |
| L | Instructions, conditions, and notices to offerors. |
| M | Evaluation factors for award. |

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Add new § 1452.201-70 to read as follows:

§ 1452.201-70 Authorities and delegations.

As prescribed in § 1401.670-1, insert the following clause:

AUTHORITIES AND DELEGATIONS (XXX 2011)

(a) The Contracting Officer is the only individual authorized to enter into or terminate this contract, modify any term or condition of this contract, waive any requirement of this contract, or accept nonconforming work.

(b) The Contracting Officer will designate a Contracting Officer's Representative (COR) at time of award. The COR will be responsible for technical monitoring of the contractor's performance and deliveries. The COR will be appointed in writing, and a copy of the appointment will be furnished to the Contractor. Changes to this delegation will be made by written changes to the existing appointment or by issuance of a new appointment.

(c) The COR is not authorized to perform, formally or informally, any of the following actions:

(1) Promise, award, agree to award, or execute any contract, contract modification, or notice of intent that changes or may change this contract;

(2) Waive or agree to modification of the delivery schedule;

(3) Make any final decision on any contract matter subject to the Disputes Clause;

(4) Terminate, for any reason, the Contractor's right to proceed;

(5) Obligate in any way, the payment of money by the Government.

(d) The Contractor shall comply with the written or oral direction of the Contracting Officer or authorized representative(s) acting within the scope and authority of the

appointment memorandum. The Contractor need not proceed with direction that it considers to have been issued without proper authority. The Contractor shall notify the Contracting Officer in writing, with as much detail as possible, when the COR has taken an action or has issued direction (written or oral) that the Contractor considers to exceed the COR's appointment, within 3 days of the occurrence. Unless otherwise provided in this contract, the Contractor assumes all costs, risks, liabilities, and consequences of performing any work it is directed to perform that falls within any of the categories defined in paragraph (c) prior to receipt of the Contracting Officer's response issued under paragraph (e) of this clause.

(e) The Contracting Officer shall respond in writing within 30 days to any notice made under paragraph (d) of this clause. A failure of the parties to agree upon the nature of a direction, or upon the contract action to be taken with respect thereto, shall be subject to the provisions of the Disputes clause of this contract.

(f) The Contractor shall provide copies of all correspondence to the Contracting Officer and the COR.

(g) Any action(s) taken by the Contractor, in response to any direction given by any person acting on behalf of the Government or any Government official other than the Contracting Officer or the COR acting within his or her appointment, shall be at the Contractor's risk.

(End of clause)

10. In § 1452.228-7, in paragraph (a), remove the reference "1428.311-2" and add in its place "1428.311-1."

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2009-0093]

Federal Motor Vehicle Safety Standards; Roof Crush Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Response to petition for reconsideration.

SUMMARY: This document responds to a petition for reconsideration of a final rule that upgraded the agency's safety standard on roof crush resistance. The petition was submitted by the National Truck Equipment Association (NTEA). After carefully considering the petition, we are denying it.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Christopher J. Wiacek, NHTSA Office of Crashworthiness Standards, telephone 202-366-4801. For legal issues, you may call J. Edward Glancy, NHTSA Office of Chief Counsel, telephone 202-366-2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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