

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 42**

[FAC 2005–52; FAR Case 2010–017; Item V; Docket 2010–0017, Sequence 1]

RIN 9000–AL92

**Federal Acquisition Regulation;
Oversight of Contractor Ethics
Programs**

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 add to the list of contract administration functions, the function to ensure that contractors have implemented the mandatory contractor business ethics program requirements.

DATES: *Effective Date:* June 30, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Robinson, Procurement Analyst, at (202) 501–2658, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–52, FAR Case 2010–017.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the FAR in response to recommendations from the Government Accountability Office (GAO) Report GAO–09–591, *Defense Contracting Integrity—Opportunities Exist to Improve DoD’s Oversight of Contractor Ethics Programs*. The ethics program requirement flows from FAR 52.203–13, Contractor Code of Business Ethics and Conduct.

This final rule modifies FAR 42.302, Contract Administration Functions, to add to the list of contract administration functions, the function to ensure that contractors have implemented the mandatory contractor business ethics program requirements of FAR 52.203–13.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707. However, DoD, GSA, and NASA will consider comments from small entities concerning the affected FAR part in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610, *et seq.* (FAC 2005–52, FAR Case 2010–017) in correspondence.

IV. 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 Part 42

Government procurement.

Dated: May 18, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 42 as set forth below:

**PART 42—CONTRACT
ADMINISTRATION AND AUDIT
SERVICES**

- 1. The authority citation for 48 CFR part 42 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

- 2. Amend section 42.302 by adding paragraph (a)(71) to read as follows:

42.302 Contract administration functions.

(a) * * *

(71) Ensure that the contractor has implemented the requirements of

52.203–13, Contractor Code of Business Ethics and Conduct.

* * * * *

[FR Doc. 2011–12855 Filed 5–27–11; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 52 and 53**

[FAC 2005–52; Item VI; Docket 2011–0078; Sequence 2]

**Federal Acquisition Regulation;
Technical Amendments**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to make editorial changes.

DATES: *Effective Date:* May 31, 2011.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1275 First Street, NE., 7th Floor, Washington, DC 20417, (202) 501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–52, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 52 and 53, this document makes editorial changes to the Federal Acquisition Regulation.

List of Subjects in 48 CFR Parts 52 and 53

Government procurement.

Dated: May 18, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 52 and 53 as set forth below:

- 1. The authority citation for 48 CFR parts 52 and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 52—SOLICITATION PROVISIONS
AND CONTRACT CLAUSES**

52.212–3 [Amended]

- 2. Amend section 52.212–3 by—

■ a. Removing from paragraphs (c)(6)(i) and (ii), and (c)(7)(i) and (ii) “It * is, * is not” and adding “It ☐ is, ☐ is not” in their place; and

■ b. Removing from paragraph (c)(7)(ii) “(c)(7)(ii)” and adding “(c)(7)(i)” in its place.

PART 53—FORMS

■ 3. Amend section 53.301–1447 by revising the form to read as follows:

53.301–1447 Solicitation/Contract.

BILLING CODE 6820–EP–P

SOLICITATION/CONTRACT				1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING		PAGE OF													
BIDDER/OFFEROR TO COMPLETE BLOCKS 11, 13, 15, 21, 22, & 27																					
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. SOLICITATION NUMBER		5. SOLICITATION TYPE <input type="checkbox"/> SEALED BIDS (IFB) <input type="checkbox"/> NEGOTIATED (RFP)		6. SOLICITATION ISSUE DATE													
7. ISSUED BY CODE				8. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS (EDWOSB) <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS NAICS: <input type="checkbox"/> 8(A) SIZE STANDARD:																	
9. (AGENCY USE)																					
10. ITEMS TO BE PURCHASED (BRIEF DESCRIPTION) <input type="checkbox"/> SUPPLIES <input type="checkbox"/> SERVICES																					
11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS (60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD) FROM THE DATE SET FORTH IN BLOCK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM FOR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN.					12. ADMINISTERED BY CODE																
13. CONTRACTOR OFFEROR CODE FACILITY CODE					14. PAYMENT WILL BE MADE BY CODE																
TELEPHONE NUMBER DUNS NUMBER					SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK:																
<input type="checkbox"/> CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER					16. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304 <input type="checkbox"/> 41 U.S.C. 253 () ()																
15. PROMPT PAYMENT DISCOUNT																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">17. ITEM NO.</th> <th style="width: 50%;">18. SCHEDULE OF SUPPLIES/SERVICES</th> <th style="width: 10%;">19. QUANTITY</th> <th style="width: 10%;">20. UNIT</th> <th style="width: 10%;">21. UNIT PRICE</th> <th style="width: 10%;">22. AMOUNT</th> </tr> </thead> <tbody> <tr> <td style="height: 150px;"></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>										17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES	19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT						
17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES	19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT																
23. ACCOUNTING AND APPROPRIATION DATA								24. TOTAL AWARD AMOUNT (FOR GOVERNMENT USE ONLY)													
25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO _____ <input type="checkbox"/> ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.					26. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: <input type="checkbox"/>																
27. SIGNATURE OF OFFEROR/CONTRACTOR					28. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)																
NAME AND TITLE OF SIGNER (TYPE OR PRINT)				DATE SIGNED		NAME OF CONTRACTING OFFICER			DATE SIGNED												

NO RESPONSE FOR REASONS CHECKED			
	CANNOT COMPLY WITH SPECIFICATIONS		CANNOT MEET DELIVERY REQUIREMENT
	UNABLE TO IDENTIFY THE ITEM(S)		DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
	OTHER (<i>Specify</i>)		
	WE DO	WE DO NOT, DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEMS INVOLVED	
NAME AND ADDRESS OF FIRM (<i>Include Zip Code</i>)		SIGNATURE	
		TYPE OR PRINT NAME AND TITLE OF SIGNER	
<div style="display: flex; justify-content: space-between;"> <div> <p>FROM:</p> <p style="margin-top: 100px;">TO:</p> <p style="margin-top: 100px;">SOLICITATION NO. _____</p> <p style="margin-top: 10px;">DATE AND LOCAL TIME _____</p> </div> <div style="text-align: right;"> <p>AFFIX STAMP HERE</p> </div> </div>			

STANDARD FORM 1447 (REV. 5/2011) BACK

■ 4. Amend section 53.301–1449 by revising the form to read as follows:

§ 53.301–1449 Solicitation/Contract/Order for Commercial Items.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER		PAGE 1 OF	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER	
6. SOLICITATION ISSUE DATE		7. FOR SOLICITATION INFORMATION CALL:		a. NAME		b. TELEPHONE NUMBER (No collect calls)	
8. OFFER DUE DATE/LOCAL TIME		9. ISSUED BY		CODE		10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR:	
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		<input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS		<input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: <input type="checkbox"/> ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS (EDWOSB) SIZE STANDARD: <input type="checkbox"/> 8 (A)	
13b. RATING		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		14. METHOD OF SOLICITATION		<input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP	
15. DELIVER TO		CODE		16. ADMINISTERED BY		CODE	
17a. CONTRACTOR/OFFEROR		CODE		FACILITY CODE		18a. PAYMENT WILL BE MADE BY	
CODE		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM		17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		TELEPHONE NO.	
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
(Use Reverse and/or Attach Additional Sheets as Necessary)							
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED						<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED	
<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:						30a. SIGNATURE OF OFFEROR/CONTRACTOR	
31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)						30b. NAME AND TITLE OF SIGNER (Type or print)	
31b. NAME OF CONTRACTING OFFICER (Type or print)						30c. DATE SIGNED	
31c. DATE SIGNED						30d. DATE SIGNED	

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN
☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
		32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL				

38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	42b. RECEIVED AT (<i>Location</i>)	
	42c. DATE REC'D (<i>YY/MM/DD</i>)	42d. TOTAL CONTAINERS

STANDARD FORM 1449 (REV. 5/2011) BACK

■ 5. Amend section 53.302–347 by
revising the form to read as follows:

§ 53.302–347 Order for Supplies or
Services.

ORDER FOR SUPPLIES OR SERVICES						PAGE OF PAGES	
IMPORTANT: Mark all packages and papers with contract and/or order numbers.							
1. DATE OF ORDER		2. CONTRACT NO. (If any)		6. SHIP TO:			
3. ORDER NO.		4. REQUISITION/REFERENCE NO.		a. NAME OF CONSIGNEE			
5. ISSUING OFFICE (Address correspondence to)				b. STREET ADDRESS			
7. TO:				c. CITY		d. STATE	e. ZIP CODE
a. NAME OF CONTRACTOR				f. SHIP VIA			
b. COMPANY NAME				8. TYPE OF ORDER			
c. STREET ADDRESS				<input type="checkbox"/> a. PURCHASE REFERENCE YOUR: _____ Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheet, if any, including delivery as indicated.		<input type="checkbox"/> b. DELIVERY -- Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.	
d. CITY		e. STATE	f. ZIP CODE				
9. ACCOUNTING AND APPROPRIATION DATA				10. REQUISITIONING OFFICE			
11. BUSINESS CLASSIFICATION (Check appropriate box(es)) <input type="checkbox"/> a. SMALL <input type="checkbox"/> b. OTHER THAN SMALL <input type="checkbox"/> c. DISADVANTAGED <input type="checkbox"/> d. WOMEN-OWNED <input type="checkbox"/> e. HUBZone <input type="checkbox"/> f. SERVICE-DISABLED VETERAN-OWNED <input type="checkbox"/> g. WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> h. ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS (EDWOSB)						12. F.O.B. POINT	
13. PLACE OF		14. GOVERNMENT B/L NO.		15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)		16. DISCOUNT TERMS	
a. INSPECTION		b. ACCEPTANCE					
17. SCHEDULE (See reverse for Rejections)							
ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)	
18. SHIPPING POINT		19. GROSS SHIPPING WEIGHT		20. INVOICE NO.		17(h) TOT. ◁ (Cont. pages)	
21. MAIL INVOICE TO:							
a. NAME							
b. STREET ADDRESS (or P.O. Box)						17(i) ◁ GRAND TOTAL	
c. CITY				d. STATE	e. ZIP CODE		
22. UNITED STATES OF AMERICA BY (Signature) ▷				23. NAME (Typed)			
SEE BILLING INSTRUCTIONS ON REVERSE				TITLE: CONTRACTING/ORDERING OFFICER			

