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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 22, 39, and 52

[FAC 2005-82; Item IV; Docket No. 2015-0052; Sequence No. 1]

Federal Acquisition Regulation; Technical Amendments

AGENCIES: 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 (FAR) in order to make editorial changes.

DATES: Effective: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street, NW., 2nd Floor, Washington, DC 20405, 202-501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-82, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 4, 22, 39, and 52 this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 4, 22, 39, and 52

Government procurement.

Dated: April 30, 2015.

William Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 22, 39, and 52 as set forth below:

1. The authority citation for 48 CFR parts 4, 22, 39, and 52 continues to read as follow:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE MATTERS

4.905 [Amended]

2. Amend section 4.905 by removing from paragraph (a) "provisionat" and adding "provision at" in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

3. Amend section 22.102-2 by revising the first sentence of paragraph (a) to read as follows:

22.102-2 Administration.

(a) Agencies shall cooperate with, and encourage contractors to use to the fullest extent practicable, the DOL Employment and Training Administration (DOLETA) at <http://www.doleta.gov>, and its affiliated local offices in meeting contractors' labor requirements. * * *

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PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

39.101 [Amended]

4. Amend section 39.101 by removing from paragraph (a) (1) (ii) "(EPEAT)" and adding "(EPEAT®)" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 52.212-4 by revising the date of the clause and adding paragraph (v) to read as follows:

52.212-4 Contract Terms and Conditions—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS ([INSERT ABBREVIATED MONTH AND YEAR OF DATE OF PUBLICATION IN THE FEDERAL REGISTER])

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(v) Incorporation by reference. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

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6. Amend section 52.212-5 by—

- a. Revising the date of the clause;
- b. Removing from paragraph (b) (36) (i) "(Jun 2014)+(E.O.s" and adding "(JUN 2014) (E.O.s" in its place;
- c. Removing from paragraph (b) (36) (ii) "(ii) Alternate I" and adding and "___(ii) Alternate I" in its place;
- d. Removing from paragraph (b) (39) (ii) "(ii) Alternate I" and adding "___(ii) Alternate I" in its place; and
- e. Revising paragraph (e) (1) (v).

The revision reads as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR
EXECUTIVE ORDERS—COMMERCIAL ITEMS (**[INSERT ABBREVIATED MONTH AND YEAR
OF DATE OF PUBLICATION IN THE FEDERAL REGISTER]**)

* * * * *

(e) * * *

(1) * * *

(v) 52.222-26, Equal Opportunity (APR 2015) (E.O.
11246).

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7. Amend section 52.213-4 by revising the date of the
clause and paragraphs (a) and (b) to read as follows:

**52.213-4 Terms and Conditions—Simplified Acquisitions
(Other Than Commercial Items).**

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TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL
ITEMS) (**[INSERT ABBREVIATED MONTH AND YEAR OF DATE OF PUBLICATION IN
THE FEDERAL REGISTER]**)

(a) The Contractor shall comply with the following
Federal Acquisition Regulation (FAR) clauses that are
incorporated by reference:

(1) The clauses listed below implement provisions
of law or Executive order:

(i) 52.222-3, Convict Labor (JUN 2003) (E.O.
11755).

(ii) 52.222-21, Prohibition of Segregated
Facilities (APR 2015).

(iii) 52.222-26, Equal Opportunity (APR 2015)
(E.O. 11246).

(iv) 52.225-13, Restrictions on Certain Foreign
Purchases (JUN 2008) (E.O.s, proclamations, and statutes

administered by the Office of Foreign Assets Control of the Department of the Treasury).

(v) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(vi) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78 (19 U.S.C. 3805 note)).

(2) Listed below are additional clauses that apply:

(i) 52.232-1, Payments (APR 1984).

(ii) 52.232-8, Discounts for Prompt Payment (FEB 2002).

(iii) 52.232-11, Extras (APR 1984).

(iv) 52.232-25, Prompt Payment (JUL 2013).

(v) 52.232-39, Unenforceability of Unauthorized Obligations (JUN 2013).

(vi) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013).

(vii) 52.233-1, Disputes (MAY 2014).

(viii) 52.244-6, Subcontracts for Commercial Items (APR 2015).

(ix) 52.253-1, Computer Generated Forms (JAN 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

(1) The clauses listed below implement provisions of law or Executive order:

(i) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUL 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note) (Applies to contracts valued at \$25,000 or more).

(ii) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (JAN 2014) (E.O. 13126). (Applies

to contracts for supplies exceeding the micro-purchase threshold).

(iii) 52.222-20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (MAY 2014) (41 U.S.C. chapter 65) (Applies to supply contracts over \$15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

(iv) 52.222-35, Equal Opportunity for Veterans (JUL 2014) (38 U.S.C. 4212) (Applies to contracts of \$100,000 or more).

(v) 52.222-36, Equal Employment for Workers with Disabilities (JUL 2014) (29 U.S.C. 793) (Applies to contracts over \$15,000, unless the work is to be performed outside the United States by employees recruited outside the United States). (For purposes of this clause, "United States" includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

(vi) 52.222-37, Employment Reports on Veterans (JUL 2014) (38 U.S.C. 4212) (Applies to contracts of \$100,000 or more).

(vii) 52.222-41, Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67) (Applies to service contracts over \$2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).

(viii) (A) 52.222-50, Combating Trafficking in Persons (MAR 2015) (22 U.S.C. chapter 78 and E.O 13627) (Applies to all solicitations and contracts).

(B) Alternate I (MAR 2015) (Applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies).

(ix) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2014) (Executive Order 13658) (Applies when 52.222-6 or 52.222-41 are in the contract and performance in

whole or in part is in the United States the 50 States and the District of Columbia).

(x) 52.223-5, Pollution Prevention and Right-to-Know Information (MAY 2011) (E.O. 13423) (Applies to services performed on Federal facilities).

(xi) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b) (Unless exempt pursuant to 23.204, applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP) will be-

(A) Delivered;

(B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(C) Furnished by the Contractor for use by the Government; or

(D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance).

(xii) 52.225-1, Buy American-Supplies (MAY 2014) (41 U.S.C. chapter 67) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition-

(A) Is set aside for small business concerns; or

(B) Cannot be set aside for small business concerns (see 19.502-2), and does not exceed \$25,000).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792) (Applies to contracts greater than \$25,000 that provide for the provision, the service, or the sale of food in the United States).

(xiv) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (JUL 2013) (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) database as its source of EFT information.)

(xv) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information.)

(xvi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. App. 1241) (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at 47.504(d).))

(2) Listed below are additional clauses that may apply:

(i) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (AUG 2013) (Applies to contracts over \$30,000).

(ii) 52.211-17, Delivery of Excess Quantities (SEP 1989) (Applies to fixed-price supplies).

(iii) 52.247-29, F.o.b. Origin (FEB 2006) (Applies to supplies if delivery is f.o.b. origin).

(iv) 52.247-34, F.o.b. Destination (NOV 1991) (Applies to supplies if delivery is f.o.b. destination).

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8. Amend section 52.223-16 by revising the section heading to read as follows:

52.223-16 Acquisition of EPEAT®-Registered Personal Computer Products.

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[BILLING CODE 6820-EP]

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