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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 7, 19, 34, 42, and 52

[FAC 2005-92; Item III; Docket No. 2016-0052; Sequence No. 5]

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: Ms. Hada Flowers, Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202-501-4755. Please cite FAC 2005-92, Technical Amendments.

SUPPLEMENTARY INFORMATION:

In order to update certain elements in 48 CFR parts 2, 7, 19, 34, 42, and 52 this document makes editorial changes to the FAR.

List of Subjects in 48 CFR Parts 2, 7, 19, 34, 42, and 52

Government procurement.

Dated: November 10, 2016.

William F. 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 2, 7, 19, 34, 42, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 7, and 19 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 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101, in paragraph (b) (2) by revising the definition "Earned value management system" to read as follows:

2.101 Definitions.

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(b) * * *

(2) * * *

Earned value management system means a project management tool that effectively integrates the project scope of work with cost, schedule and performance elements for optimum project planning and control. The qualities and operating characteristics of an earned value management system are described in Electronic Industries Alliance Standard 748 (EIA-748), Earned Value Management Systems. (See OMB Circular A-11, Part 7.)

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PART 7—ACQUISITION PLANNING

7.105 [Amended]

3. Amend section 7.105 by removing from paragraph (b) (11) "American National Standards Institute/Electronics Industries Alliance (ANSI/EIA) Standard-748, Earned Value Management Systems" and adding "Electronic Industries Alliance Standard 748 (EIA-748)" in its place.

PART 19—SMALL BUSINESS PROGRAMS

4. Revise section 19.1506 to read as follows:

19.1506 Women-Owned Small Business Program sole source awards.

(a) A contracting officer shall consider a contract award to an EDWOSB concern on a sole source basis (see 6.302-5(b) (7)) before considering small business set-asides (see 19.203 and subpart 19.5) provided none of the exclusions at 19.1504 apply and—

(1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are underrepresented in Federal procurement;

(2) The contracting officer does not have a reasonable expectation that offers would be received from two or more EDWOSB concerns; and

(3) The conditions in paragraph (c) of this section exist.

(b) A contracting officer shall consider a contract award to a WOSB concern (including EDWOSB concerns) eligible under the WOSB Program on a sole source basis (see 6.302-5(b)(7)) before considering small business set-asides (see 19.203 and subpart 19.5) provided none of the exclusions at 19.1504 apply and—

(1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement;

(2) The contracting officer does not have a reasonable expectation that offers would be received from two or more WOSB concerns (including EDWOSB concerns); and

(3) The conditions in paragraph (c) of this section exist.

(c)(1) The anticipated award price of the contract, including options, will not exceed—

(i) \$6.5 million for a requirement within the NAICS codes for manufacturing; or

(ii) \$4 million for a requirement within any other NAICS codes.

(2) The EDWOSB concern or WOSB concern has been determined to be a responsible contractor with respect to performance.

(3) The award can be made at a fair and reasonable price.

(d) The SBA has the right to appeal the contracting officer's decision not to make a sole source award to either an EDWOSB concern or WOSB concern eligible under the WOSB program.

PART 34—MAJOR SYSTEM ACQUISITION

5. The authority citation for 48 CFR part 34 is revised to read as follows:

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

Subpart 34.0 [Amended]

6. Remove the heading of subpart 34.0.

34.005-2 [Amended]

7. Amend section 34.005-2 by removing from paragraph (b) (6) "ANSI/EIA Standard-748" and adding "Electronic Industries Alliance Standard 748 (EIA-748)" in its place.

34.201 [Amended]

8. Amend section 34.201 by removing from paragraph (b) "American National Standards Institute/Electronics Industries Alliance (ANSI/EIA) Standard-748, Earned Value Management Systems" and adding "Electronic Industries Alliance Standard 748 (EIA-748)" in its place.

34.203 [Amended]

9. Amend section 34.203 by-

a. Removing from paragraph (a) "Notice of Earned Value Management System-Pre-Award IBR" and adding "Notice of Earned Value Management System-Preaward Integrated Baseline Review" in its place; and

b. Removing from paragraph (b) "Notice of Earned Value Management System-Post-Award IBR" and adding "Notice of Earned Value Management System-Postaward Integrated Baseline Review" in its place.

PART 42-CONTRACT ADMINISTRATION AND AUDIT SERVICES

10. 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 51 U.S.C. 20113.

42.709 [Redesignated as Section 42.709-0]

11. Section 42.709 is redesignated as section 42.709-0, and a new section 42.709 is added to read as follows:

42.709 Penalties for Unallowable Costs.

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PART 52-SOLICITATION PROVISIONS AND CONTRACT CLAUSES

12. The authority citation for 48 CFR part 52 continues to read as follows:

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

13. Amend section 52.234-2 by—
- a. Revising the section and provision headings;
 - b. Removing from paragraph (a) “ANSI/EIA Standard-748” and adding “Electronic Industries Alliance Standard 748(EIA-748)” in its place; and
 - c. Removing from paragraph (b) (4) “ANSI/EIA Standard-748” and adding “EIA-748” in its place.

The revisions read as follows:

52.234-2 Notice of Earned Value Management System—Preaward Integrated Baseline Review.

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NOTICE OF EARNED VALUE MANAGEMENT SYSTEM—PREAWARD INTEGRATED BASELINE REVIEW ([INSERT ABBREVIATED MONTH AND YEAR OF DATE OF PUBLICATION IN THE FEDERAL REGISTER])

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14. Amend section 52.234-3 by—
- a. Revising the section and provision headings;
 - b. Removing from paragraph (a) “ANSI/EIA Standard-748” and adding “Electronic Industries Alliance Standard 748 (EIA-748)” in its place; and
 - c. Removing from paragraph (b) (4) “ANSI/EIA Standard-748” and adding “EIA-748” in its place.

The revisions read as follows:

52.234-3 Notice of Earned Value Management System—Postaward Integrated Baseline Review.

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NOTICE OF EARNED VALUE MANAGEMENT SYSTEM-POSTAWARD INTEGRATED BASELINE
REVIEW ([INSERT ABBREVIATED MONTH AND YEAR OF DATE OF PUBLICATION IN THE
FEDERAL REGISTER])

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15. Amend section 52.234-4 by-

a. Revising the date of the clause;

b. Removing from paragraph (a) "ANSI/EIA Standard-748" and adding "Electronic Industries Alliance Standard 748 (EIA-748)" in its place; and

c. Removing from paragraph (b) introductory text "ANSI/EIA Standard-748" and adding "EIA-748" in its place.

The revision reads as follows:

52.234-4 Earned Value Management System.

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EARNED VALUE MANAGEMENT SYSTEM ([INSERT ABBREVIATED MONTH AND YEAR OF
DATE OF PUBLICATION IN THE FEDERAL REGISTER])

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