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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 8

[FAC 2021-02; FAR Case 2019-019; Item III; Docket No. FAR 2019-0019, Sequence No. 1]

RIN 9000-A002

Federal Acquisition Regulation: Update to Excess Personal Property Procedures

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 to amend the Federal Acquisition Regulation (FAR) to update internal Government procedures on how agencies can locate excess personal property and to remove obsolete requirements.

DATES: *Effective:* **[Insert date 30 days after date of publication in the *FEDERAL REGISTER*].**

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703-605-2868, or by email at mahruba.uddowla@gsa.gov for clarification of content. For

information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or *GSARegSec@gsa.gov*. Please cite FAC 2021-02, FAR Case 2019-019.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are amending the FAR to update internal Government procedures related to excess personal property and to remove obsolete requirements. FAR part 2 defines "excess personal property" to mean any personal property under the control of a Federal agency that the agency head determines is not required for its needs or for the discharge of its responsibilities. Excess personal property is a mandatory source of supply for Federal agencies (see FAR 8.002). Agencies are required to satisfy their requirements for supplies from the excess personal property of other agencies, when practicable, before initiating a contract action. This rule updates FAR guidance on obtaining information about available excess personal property to reflect the current processes and sources established by GSA Federal Acquisition Service's Office of Personal Property Management (PPMO), which helps agencies dispose of personal property that is no longer

needed and alternately helps agencies acquire this excess personal property.

Federal policy and procedures relating to excess personal property are found in the Federal Management Regulations at 41 CFR part 102-36. FAR subpart 8.1, Excess Personal Property, contains information to ensure the acquisition workforce is aware of the Government's policies on the use of excess personal property and provides the workforce with references to find more information about excess personal property.

FAR subpart 8.1 has not been substantively amended since its original publication in 1983. As a result, the subpart reflects outdated and obsolete procedures, such as agencies having to submit GSA Form 1539, Request for Excess Personal Property, to get information on the availability of excess personal property; the GSA Form 1539 was discontinued in 1997. Similarly, agencies can no longer look at "reports and samples" of excess personal property in GSA regional offices or at excess personal property "catalogs and bulletins" issued by GSA.

Based on input from the PPMO, FAR subpart 8.1 is amended to reflect current practices for making excess personal property information available to agencies (i.e. GSAXcess®) and how agencies can contact the PPMO.

Specifically, this rule removes references to catalogs and bulletins issued by GSA, the use of a discontinued GSA form, and the ability to the examine reports and samples of excess personal property in GSA regional offices. Instead, the rule identifies the website through which agencies can find information on available excess personal property. Additionally, this rule updates the name of the offices handling excess personal property within GSA and provides a website containing contact information for those offices.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule simply removes and updates obsolete guidance that is used solely for the internal operating procedures of the Government. This rule does not impose any new requirements on contracts at or below the SAT, or to acquisitions for commercial items, including COTS items.

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statutory provision that applies to the publication of the FAR is 41 U.S.C. 1707. Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment

if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD, GSA, and NASA are merely removing and updating obsolete information in the FAR that is used solely for the internal operating procedures of the Government.

IV. 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 rule is not a significant regulatory action and therefore, this rule was not subject to the review of the Office of Information and Regulatory Affairs under section 6(b) of E.O. 12866. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This final rule is not subject to E.O. 13771, Reducing Regulation and controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

VII. Paperwork Reduction Act

This 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 8

Government procurement.

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Therefore, DoD, GSA, and NASA amend 48 CFR part 8 as set forth below:

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1. The authority citation for 48 CFR part 8 continues to read as follows:

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

8.102 [Amended]

2. Amend section 8.102 by removing the word "must" twice and adding "shall" in their places, respectively.

3. Revise section 8.103 to read as follows:

8.103 Information on available excess personal property.

Information regarding the availability of excess personal property can be obtained through—

(a) Reviewing and requesting available excess personal property in GSAXcess® (see <https://gsaxcess.gov>); and

(b) Personal contact with GSA or the activity holding the property.

4. Amend section 8.104 by—

a. Removing "102-36.90" and "regional office" and adding "102-36.220" and "Personal Property Management office" in their places, respectively.

b. Adding a sentence at the end of the section.

The addition reads as follows:

8.104 Obtaining nonreportable property.

* * * Visit www.gsa.gov/ppmo for contact information.

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