



DEPARTMENT OF TRANSPORTATION

BILLING CODE 4910-9X

48 CFR Part 1252

RIN 2105-AF22

Solicitation Provisions and Contract Clauses

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule amends the Transportation Acquisition Regulation (TAR) to provide needed editorial changes. DOT is publishing a technical amendment to make a minor administrative correction to a TAR clause citation.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. LaWanda Morton-Chunn, Procurement Analyst, Acquisition Policy, Oversight & Business Strategies (M-61), Office of the Senior Procurement Executive (OSPE), Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-2267. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this rule is to make a minor administrative correction to the clause at 1252.239-92, Information and Communication Technology Accessibility Notice, paragraph (b). This revision corrects an erroneous reference to a separate TAR clause.

Discussion and Analysis

TAR part 1252, 1252.239-92, Information and Communication Technology Accessibility Notice, paragraph (b), is revised to correct a typographical error to a reference to another TAR clause. The reference in paragraph (b) to the clause at 1252.239-81, Information and Communication Technology Accessibility, is revised to reference the clause at 1252.239-93,

Information and Communication Technology Accessibility. The clause at 1252.239-81 is titled Cloud Identification and Authentication (Organizational Users) Multi-Factor Authentication, which is not the correct reference. The clause at 1252.239-93 is titled Information and Communication Technology Accessibility. The clause at 1252.239-93 is the clause that paragraph (b) of 1252.239-92 intended to reference.

Notice and Comment

This rule makes administrative changes that do not require prior notice and an opportunity for comment or a delayed effective date, consistent with 41 U.S.C. 1707, 48 CFR 1.301, and 48 CFR 1.501-3.

The statutes at 41 U.S.C. 1707(a) specifies a required comment period for procurement policies, regulations, procedures and forms. Specifically, a procurement policy, regulation, procedure, or form may not take effect until 60 days after it is published for public comment if it relates to the expenditure of funds and either (i) has a significant effect beyond the internal operating procedures of the agency issuing the action; or (ii) has a significant cost or administrative impact on contractors or offerors. An exception can be made if there are compelling circumstances for an earlier effective date. The statutes at 41 U.S.C. 1707(b) also requires agencies to publish proposed procurement regulations in the *Federal Register* for a comment period of at least 30 days unless the agency waives those requirements pursuant to 41 U.S.C. 1707(d). This provision specifies that an agency may waive the publication and comment requirements only if urgent and compelling circumstances make compliance impracticable. Section 1.501-3 of the Federal Acquisition Regulation (FAR) further provides that proposed agency acquisition regulations need not be published for comment when the rule does not constitute a significant revision, and FAR 1.301 requires publication of proposed changes to agency acquisition regulations for public comment in conformance with FAR subpart 1.5 (including FAR 1.501-3) and 41 U.S.C. 1707.

The Department has determined that publication of this rule for notice and comment is not required pursuant to these authorities. The correction of the erroneous cross reference is an administrative change that will not have a significant effect on any party. The correction will not impose a significant cost, or have a significant administrative impact, on contractors or offerors. This final rule merely updates 1252.239-92 to reference the correct TAR clause.

Executive Orders 12866 and 13563

The Office of Management and Budget (OMB) has determined that this rule is not a significant regulatory action under Executive Order 12866. Therefore, OMB did not review the final rule.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification follows. This rulemaking does not change DOT’s policy regarding small businesses, does not have an economic impact on individual businesses, and does not impose any increased or decreased costs on small business entities. Instead, it is merely an administrative correction to an erroneous cross reference. Therefore, pursuant to 5 U.S.C. 605(b), a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This final rule does not contain any information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Congressional Review Act

This rule has not been designated by the Office of Information and Regulatory Affairs as a major rule pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.; see 5 U.S.C. 804(2)).

List of Subjects in 48 CFR Part 1252

Government procurement, Reporting and recordkeeping requirements.

Signing Authority

Signed under authority provided by 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304; 1.501-3, and 49 CFR 1.38 in Washington, D.C. on December 14, 2023.

Philip A. McNamara,
Assistant Secretary for Administration,
U.S. Department of Transportation.

For the reasons set out in the preamble, DOT amends 48 CFR part 1252 as set forth below.

PART 1252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for part 1252 continues to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 1252.2 - Text of Provisions and Clauses

1252.239-92 [Amended]

2. Amend section 1252.239-92 in paragraph (b) of the provision by removing “1252.239-81, Information and Communication Technology Accessibility” and adding in its place “1252.239-93, Information and Communication Technology Accessibility”.

