

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 1, 4, 13, 19, 32, and 52**

[FAC 2005–62; FAR Case 2010–014; Item I; Docket 2010–0014, Sequence 01]

RIN 9000–AL99

**Federal Acquisition Regulation;
Updates to Contract Reporting and
Central Contractor Registration****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 limit the use of generic substitutes instead of Data Universal Numbering System (DUNS) numbers, and update the policies and procedures associated with reporting in the Federal Procurement Data System (FPDS). Additionally, this final rule changes the clauses requiring contractor registration in the Central Contractor Registration (CCR) database and DUNS number reporting.

DATES: *Effective:* December 20, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–62, FAR Case 2010–014.

SUPPLEMENTARY INFORMATION:**I. Background**

For decades, the Data Universal Numbering System (DUNS) number provided by Dun & Bradstreet has been the Federal Government's unique identifier for contractors. It is used (1) to uniquely identify a contractor entity, and (2) to roll-up Government procurements to the ultimate parent organization to show the corporate family receiving U.S. obligations. Furthermore, the DUNS number is the identifier for the Federal Procurement Data System (FPDS) and for the Federal Funding Accountability and Transparency Act of 2006 (Transparency Act) reporting to <http://www.usaspending.gov/>.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at

76 FR 73564 on November 29, 2011, to revise the practice for use of generic DUNS numbers and to update the CCR clause. Due to legitimate challenges encountered with overseas contracting, a practice existed using a generic DUNS number, such as “Miscellaneous Foreign Vendor” to enable accounting of the obligation without explicit identification of the vendor, *i.e.*, foreign local contractors where Dun & Bradstreet registration is impracticable, or foreign contractors when identification may endanger the contractor.

When a generic DUNS number is used, the identity of the contractor is masked beyond the local contracting office. The contractor's identification for all downstream reporting processes is the name of the generic DUNS number, for example, “Miscellaneous Foreign Vendor”.

The practice of using generic DUNS numbers adversely affects the transparency of the Government's data, including Transparency Act contract reporting. Also, the contractor is not able to access and perform its own reporting requirements, such as Transparency Act subcontract reporting, because the contract is not associated with the contractor in Federal-wide processes. As such, the use of a generic DUNS number should be limited to those actions where it is truly necessary. The rule includes requirements intended to more strictly limit the use of the generic DUNS number to foreign contract actions valued at or below \$25,000.

For greater transparency and clarification, updates or corresponding changes in procedures and clauses in FAR parts 1, 4, 19, 32, and 52 are related to the use of the DUNS number, and CCR and FPDS reporting.

This rule uses the existing term “Central Contractor Registration” rather than “System for Award Management,” because FAR Case 2012–033 will address the terminology update to “System for Award Management” throughout the FAR.

Six respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

There are no significant changes in the final rule as a result of public comments. There are some minor changes as addressed in section II.B. of this preamble.

B. Analysis of Public Comments**1. Foreign Vendor Considerations**

Comment: Several respondents suggested revisions to the threshold for application to foreign vendors.

Response: The Transparency Act requires the collection of specific contractor identification information, as well as executive compensation for any vendor receiving a Federal award valued greater than \$25,000 (with certain exceptions). The Office of Management and Budget (OMB) has issued guidance stating that the DUNS number is the identifier for the Transparency Act, so a specific DUNS number is required.

Comment: Several respondents recommended revision to the CCR registration process for foreign vendors.

Response: The FAR requires that contractors address whether or not they are required to provide specific executive compensation information via CCR. There are no exceptions for foreign vendors in the Transparency Act. Thus, obtaining a DUNS number and CCR registration is required for contracts greater than \$25,000. There is no flexibility available beyond that outlined in the rule. In addition, the new System for Award Management will facilitate the registration of foreign vendors by eliminating the need to address registration issues not applicable to foreign vendors.

2. Contract Reporting Policy, FAR 4.603

Comment: One respondent questioned the need to change the FPDS data field title from “Funding Agency” to “Program/Funding Agency” at FAR 4.603(c).

Response: The term has been “Program/Funding Agency” in all reports generated by FPDS since 2003. The change will synchronize the FAR with the FPDS data dictionary. No change to the language is required.

3. Contract Reporting Responsibilities, FAR 4.604

Comment: One respondent sought clarity on whether the procedural changes at FAR 4.604(b)(1) and (2) indicated that the draft or error record cannot remain in that status for more than three days. The respondent also sought clarity regarding whether, if the FPDS report is completed by someone other than the contracting officer,

agencies can assume this is an acceptable practice.

Response: The rule clarifies previously ambiguous language. The draft or error record must be corrected and completed within the three business day deadline. Agency standards dictate that errors must be corrected in a timely fashion and agency systems are utilized to monitor corrections. The contracting officer is ultimately responsible for the contract action report being completed (whether or not the contracting officer is the person that inputs the report). Only the data from completed reports is included in FPDS reports. Drafts and reports containing errors are not considered complete. No change to the proposed language is required.

4. Contract Reporting Procedures, FAR 4.605

Comment: One respondent commented that FAR 4.605(c)(2)(i)(C) and 4.605(c)(2)(ii) seem to overlap with regard to overseas performance.

Response: Presently, FAR 4.605(c)(2)(i) is clear on authorized use of generic DUNS numbers for contract actions valued at or below the simplified acquisition threshold. FAR 4.605(c)(2)(ii) was revised to clarify authorized use of generic DUNS numbers for contract actions valued above \$25,000. FAR 4.605(c)(2)(ii) has been revised to clarify that it applies to individuals located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas.

Comment: One respondent noted that the current language at FAR 4.605(c)(2)(iii) could be misinterpreted. The respondent suggested specifying what decision must be documented as part of the determination.

Response: FAR 4.605(c) has been revised to provide guidance to contracting officers on proper documentation of the decision to authorize a generic DUNS number.

5. Reporting Data, FAR 4.606

Comment: One respondent noted that the new reporting requirements at 4.606(b) that restrict reporting actions with both appropriated and nonappropriated funding to only report the fully appropriated portion of the contract action needs to be revised to provide relief, exception, or waiver to agencies that cannot identify and segregate the separate funding types.

Response: Subsequent conversations with the Federal agency that submitted the public comment indicate that the issue identified is not a reporting problem for the circumstances

identified; the funding was determined to be appropriated.

Comment: One respondent noted that where FAR 4.606(d) addresses actions not subject to the FAR that are required to be reported by other authority, it is not clear whether this applies to FAR covered agencies.

Response: The title of FAR 4.606(d) has been revised to reflect the word “agencies”.

6. Solicitation Provision and Contract Clause, FAR 4.1202

Comment: One respondent noted that the prescription in FAR 4.1202 for FAR 52.204–7, Central Contractor Registration needs to be revised as it is no longer a clause.

Response: FAR 4.1202 has been revised to read “provision” instead of “clause” when it references 52.204–7. A search of the FAR identified additional references to 52.204–7 that have been revised in the same manner.

III. Executive Order 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 Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the FAR amendments affect internal Government procedures, or clarify existing procedures. Additionally, the requirement for the contractor to report any changes to their DUNS number to the contracting officer throughout the life of the contract may be rare, but should it occur, the impact is minimal.

V. 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). Existing OMB clearances 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, and 9000–0159, Central Contractor Registration, reflect current information collection burdens. This rule removes from existing CCR provision language covered by the cited OMB clearance that, per the FAR Drafting Guide, should be contained in a clause. This action creates no new collection requirement. Accordingly, FAR 1.106 will be amended to reflect two new clauses, 52.204–12 and 52.204–13, containing language instructing contractors to maintain their DUNS number and Central Contractor Registration, respectively.

List of Subjects in 48 CFR Parts 1, 4, 13, 19, 32, and 52

Government procurement.

Dated: November 9, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 4, 13, 19, 32, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 13, 19, 32, and 52 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.

PART 1—FEDERAL ACQUISITION REGULATION SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table by adding in numerical sequence FAR segments “52.204–12” and “52.204–13” and their corresponding OMB Control Numbers “9000–0145” and “9000–0159”, respectively.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Revise section 4.603 to read as follows:

4.603 Policy.

(a) In accordance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), all unclassified Federal award data must be publicly accessible.

(b) Executive agencies shall use FPDS to maintain publicly available information about all unclassified

contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.

(c) Agencies awarding assisted acquisitions or direct acquisitions must report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency at FPDS. These codes represent the agency and office that has provided the predominant amount of funding for the contract action. For assisted acquisitions, the requesting agency will receive socioeconomic credit for meeting agency small business goals, where applicable. Requesting agencies shall provide the appropriate agency/bureau component code as part of the written interagency agreement between the requesting and servicing agencies (see 17.502-1(b)(1)).

(d) Agencies awarding contract actions with a mix of appropriated and non-appropriated funding shall only report the full appropriated portion of the contract action in FPDS.

■ 4. Amend section 4.604 by revising paragraph (b) to read as follows:

4.604 Responsibilities.

* * * * *

(b)(1) The responsibility for the completion and accuracy of the individual contract action report (CAR) resides with the contracting officer who awarded the contract action. CARs in a draft or error status in FPDS are not considered complete.

(2) The CAR must be confirmed for accuracy by the contracting officer prior to release of the contract award. The CAR must then be completed in FPDS within three business days after contract award.

(3) For any action awarded in accordance with 6.302-2 or pursuant to any of the authorities listed at FAR subpart 18.2, the CAR must be completed in FPDS within 30 days after contract award.

(4) When the contracting office receives written notification that a contractor has changed its size status in accordance with the clause at 52.219-28, Post-Award Small Business Program Representation, the contracting officer must submit a modification contract action report to ensure that the updated size status is entered in FPDS.

* * * * *

■ 5. Amend section 4.605 by—
 ■ a. Revising paragraph (b);
 ■ b. Redesignating paragraph (c) as paragraph (d);

■ c. Adding a new paragraph (c); and
 ■ d. Revising newly redesignated paragraph (d).
 ■ The revisions and addition read as follows:

4.605 Procedures.

* * * * *

(b) *Data Universal Numbering System.* The contracting officer must identify and report a Data Universal Numbering System (DUNS) number (Contractor Identification Number) for the successful offeror on a contract action. The DUNS number reported must identify the successful offeror's name and address as stated in the offer and resultant contract, and as registered in the Central Contractor Registration (CCR) database in accordance with the provision at 52.204-7, Central Contractor Registration. The contracting officer must ask the offeror to provide its DUNS number by using either the provision at 52.204-6, Data Universal Numbering System Number, the provision at 52.204-7, Central Contractor Registration, or the provision at 52.212-1, Instructions to Offerors—Commercial Items.

(c) *Generic DUNS number.* (1) The use of a generic DUNS number should be limited, and only used in the situations described in paragraph (c)(2) of this section. Use of a generic DUNS number does not supersede the requirements of either provisions 52.204-6 or 52.204-7 (if present in the solicitation) for the contractor to have a DUNS number assigned.

(2) Authorized generic DUNS numbers, maintained by the Integrated Acquisition Environment (IAE) program office (<https://www.acquisition.gov>), may be used to report contracts in lieu of the contractor's actual DUNS number only for—

(i) Contract actions valued at or below \$25,000 that are awarded to a contractor that is—

- (A) A student;
- (B) A dependent of either a veteran, foreign service officer, or military member assigned outside the United States and its outlying areas (as defined in 2.101); or
- (C) Located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas and the contractor does not otherwise have a DUNS number;

(ii) Contracts valued above \$25,000 awarded to individuals located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas; or

(iii) Contracts when specific public identification of the contracted party

could endanger the mission, contractor, or recipients of the acquired goods or services. The contracting officer must include a written determination in the contract file of a decision applicable to authority under this paragraph (c)(2)(iii).

(d) *American Recovery and Reinvestment Act actions.* The contracting officer, when entering data in FPDS, shall use the instructions at <https://www.fpds.gov> to identify any action funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

■ 6. Amend section 4.606 by—
 ■ a. Revising the introductory text of paragraph (b);
 ■ b. Removing paragraphs (b)(4) through (6);
 ■ c. Redesignating paragraph (b)(7) as paragraph (b)(4);
 ■ d. Removing paragraphs (b)(8) and (b)(9);
 ■ e. Adding paragraphs (c)(6) through (11); and
 ■ f. Revising paragraph (d) to read as follows:

4.606 Reporting data.

* * * * *

(b) *Reporting other actions.* Agencies may submit actions other than those listed at paragraph (a)(1) of this section only if they are able to be segregated from FAR-based actions and this is approved in writing by the FPDS Program Office. Prior to the commencement of reporting, agencies must contact the FPDS Program Office if they desire to submit any of the following types of activity:

* * * * *

(c) * * *

(6) Contract actions in which the required data would constitute classified information.

(7) Resale activity (*i.e.*, commissary or exchange activity).

(8) Revenue generating arrangements (*i.e.*, concessions).

(9) Training expenditures not issued as orders or contracts.

(10) Interagency agreements other than inter-agency acquisitions required to be reported at 4.606(a)(1).

(11) Letters of obligation used in the A-76 process.

(d) *Agencies not subject to the FAR.* Agencies not subject to the FAR may be required by other authority (*e.g.*, statute, OMB, or internal agency policy) to report certain information to FPDS. Those agencies not subject to the FAR must first receive approval from the FPDS Program Office prior to reporting to FPDS.

■ 6. Amend section 4.607 by—

- a. Revising the section heading;
- b. Removing paragraph (a) and redesignating paragraph (b) as paragraph (a); and
- c. Adding new paragraphs (b) and (c) to read as follows:

4.607 Solicitation provisions and contract clause.

* * * * *

(b) Insert the provision at 52.204–6, Data Universal Numbering System Number, in solicitations that do not contain the provision at 52.204–7, Central Contractor Registration, or meet a condition at 4.605(c)(2).

(c) Insert the clause at 52.204–12, Data Universal Numbering System Number Maintenance, in solicitations and resulting contracts that contain the provision at 52.204–6, Data Universal Numbering System.

4.905 [Amended]

- 7. Amend section 4.905 by removing from paragraph (a) “clause” and adding “provision” in its place.
- 8. Amend section 4.1102 by—
 - a. Revising paragraph (a)(1);
 - b. Removing from paragraph (a)(3)(i) “10 U.S.C. 2302(7); or” and adding “10 U.S.C. 2302(7);” in its place;
 - c. Redesignating paragraph (a)(3)(ii) as paragraph (a)(3)(iii);
 - d. Adding a new paragraph (a)(3)(ii);
 - e. Redesignating paragraphs (a)(4) through (6) as paragraphs (a)(5) through (7);
 - f. Adding a new paragraph (a)(4);
 - g. Revising newly redesignated paragraph (a)(6);
 - h. Removing from paragraph (b) “or (a)(4)” and
 - i. Revising paragraph (c)(1)(ii).

The revisions and additions read as follows:

4.1102 Policy.

(a) * * *

(1) Purchases under the micro-purchase threshold that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card for payment only;

* * * * *

(3) * * *

(ii) Contracting officers located outside the United States and its outlying areas, as defined in 2.101, for work to be performed in support of diplomatic or developmental operations, including those performed in support of foreign assistance programs overseas, in an area that has been designated by the Department of State as a danger pay post (see [\[aoprals.state.gov/Web920/danger_pay_all.asp\]\(http://aoprals.state.gov/Web920/danger_pay_all.asp\)\); or](http://</p></div>
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* * * * *

(4) Contracts with individuals for performance outside the United States and its outlying areas;

* * * * *

(6) Contract actions at or below \$25,000 awarded to foreign vendors for work performed outside the United States, if it is impractical to obtain CCR registration; and

* * * * *

(c)(1) * * *

(ii) If the contractor fails to comply with the requirements of paragraph (c)(1)(i) of the clause at 52.204–13, Central Contractor Registration Maintenance, or fails to perform the agreement at 52.204–13, paragraph (c)(1)(i)(C), and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the contractor to be other than the contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of the contract.

* * * * *

■ 9. Amend section 4.1103 by—

- a. Removing paragraph (a)(2)(ii) and redesignating paragraph (a)(2)(iii) as paragraph (a)(2)(ii);
- b. Removing from paragraph (a)(3) “clause at 52.204–7, or 52.212–4(t)” and adding “provision at 52.204–7, or the clause at 52.212–4” in its place;
- c. Removing from paragraph (b)(2) “officer.” and adding “officer; or” in its place; and
- d. Adding paragraph (b)(3) to read as follows:

4.1103 Procedures.

* * * * *

(b) * * *

(3) If the contract action is being awarded pursuant to 6.302–2, the contractor must be registered in CCR within 30 days after contract award, or at least three days prior to submission of the first invoice, whichever occurs first.

* * * * *

■ 10. Revise section 4.1105 to read as follows:

4.1105 Solicitation provision and contract clauses.

(a)(1) Except as provided in 4.1102(a), use the provision at 52.204–7, Central Contractor Registration, in solicitations.

(2) If the solicitation is anticipated to be awarded in accordance with 4.1102(a)(5), the contracting officer shall use the provision at 52.204–7, Central

Contractor Registration, with its Alternate I.

(b) Insert the clause at 52.204–13, Central Contractor Registration Maintenance, in solicitations that contain the provision at 52.204–7, and resulting contracts.

■ 11. Amend section 4.1202 by revising the introductory text to read as follows:

4.1202 Solicitation provision and contract clause.

Except for commercial item solicitations issued under FAR part 12, insert in solicitations the provision at 52.204–8, Annual Representations and Certifications. The contracting officer shall check the applicable provisions at 52.204–8(c)(2). When the provision at 52.204–7, Central Contractor Registration, is included in the solicitation, do not include the following representations and certifications:

* * * * *

4.1402 [Amended]

■ 12. Amend section 4.1402 by removing from paragraph (b) “FAR 4.605(b)(2)” and adding “FAR 4.605(c)(2)” in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.201 [Amended]

■ 13. Amend section 13.201 by removing from paragraph (d) “4.1105 and”.

PART 19—SMALL BUSINESS PROGRAMS

■ 14. Amend section 19.708 by revising paragraph (b)(1)(iii) to read as follows:

19.708 Contract clauses.

* * * * *

(b)(1) * * *

(iii) The contract action will not be reported in the Federal Procurement Data System pursuant to 4.606(c)(5) or (c)(6), the contracting officer shall use the clause with its Alternate III.

* * * * *

PART 32—CONTRACT FINANCING

32.1110 [Amended]

■ 15. Amend section 32.1110 by removing from both paragraph (a)(1) introductory text and paragraph (a)(2)(i) the words “clause at” and adding “provision at” in their places.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.204–5 [Amended]

■ 16. Amend section 52.204–5 by removing from the introductory text

“4.607(b)” and adding “4.607(a)” in its place.

- 17. Amend section 52.204–6 by—
- a. Revising the section heading, introductory text, and the provision heading;
- b. Redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively; and
- c. Adding a new paragraph (a) to read as follows:

52.204–6 Data Universal Numbering System Number.

As prescribed in 4.607(b), insert the following provision:

Data Universal Numbering System Number (DEC 2012)

(a) *Definition. Data Universal Numbering System (DUNS) number*, as used in this provision, means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal Contractors.

* * * * *

- 18. Amend section 52.204–7 by—
 - a. Revising the introductory text and the provision heading;
 - b. Removing from the introductory text of paragraph (a) “this clause” and adding “this provision” in its place;
 - c. In paragraph (a), removing from paragraphs (1) and (2) in the definition for “Registered in the CCR database” in the words “The Contractor” and adding “The offeror” in their places;
 - d. Removing paragraphs (f) and (g);
 - e. Redesignating paragraph (h) as (f);
 - f. Revising the newly redesignated paragraph (f); and
 - g. Adding Alternate I.
- The revision and addition read as follows:

52.204–7 Central Contractor Registration.

As prescribed in 4.1105(a)(1), use the following provision.

Central Contractor Registration (DEC 2012)

* * * * *

(f) Offerors may obtain information on registration at <https://www.acquisition.gov>.

(End of provision)

Alternate I (Dec 2012). As prescribed in 4.1105(a)(2), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation. If registration prior to award is not possible, the awardee shall be registered in the CCR database

within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

- 19. Add section 52.204–12 to read as follows:

52.204–12 Data Universal Numbering System Number Maintenance.

As prescribed in 4.607(c), insert the following clause:

Data Universal Numbering System Number Maintenance (DEC 2012)

(a) *Definition. Data Universal Numbering System (DUNS) number*, as used in this clause, means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal Contractors.

(b) The Contractor shall ensure that the DUNS number is maintained with Dun & Bradstreet throughout the life of the contract. The Contractor shall communicate any change to the DUNS number to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the DUNS number does not necessarily require a novation be accomplished. Dun & Bradstreet may be contacted—

(1) Via the internet at <http://fedgov.dnb.com/webform> or if the Contractor does not have internet access, it may call Dun and Bradstreet at 1–866–705–5711 if located within the United States; or

(2) If located outside the United States, by contacting the local Dun and Bradstreet office.

(End of clause)

- 20. Add section 52.204–13 to read as follows:

52.204–13 Central Contractor Registration Maintenance.

As prescribed in 4.1105(b), use the following clause:

Central Contractor Registration Maintenance (DEC 2012)

(a) *Definitions.* As used in this clause—

Central Contractor Registration (CCR) database means the primary Government repository for Contractor information required for the conduct of business with the Government.

Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal Contractors.

Data Universal Numbering System+4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at subpart 32.11) for the same concern.

Registered in the CCR database means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(c)(1)(i) If a Contractor has legally changed its business name, *doing business as* name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to—

(A) Change the name in the CCR database;

(B) Comply with the requirements of subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (c)(1)(i) of this clause, or fails to perform the agreement at paragraph (c)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor’s CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of this contract.

(3) The Contractor shall ensure that the DUNS number is maintained with Dun & Bradstreet throughout the life of the contract. The Contractor shall communicate any change to the DUNS number to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the DUNS number does not necessarily require a novation to be accomplished. Dun & Bradstreet may be contacted—

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the Contractor does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(d) Contractors may obtain additional information on registration and annual confirmation requirements at <https://www.acquisition.gov>.

(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 17

[FAC 2005-62; FAR Case 2012-010; Item II; Docket 2012-0010, Sequence 01]

RIN 9000-AM36

Federal Acquisition Regulation; Interagency Acquisitions: Compliance by Nondefense Agencies With Defense Procurement Requirements

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

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to add new requirements specific to the acquisition of supplies and services by nondefense agencies on behalf of the DoD. This rule implements a section of the National Defense Authorization Act for Fiscal Year 2008, with later amendments.

DATES: *Effective date:* November 20, 2012.

Comment date: Interested parties should submit written comments to the Regulatory Secretariat on or before January 22, 2013 to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005-62, FAR Case 2012-010, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2012-010”. Select the link “Submit a Comment” that corresponds with “FAR Case 2012-010.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2012-010” on your attached document.

- *Fax:* 202-501-4067.

- *Mail:* General Services Administration, Regulatory Secretariat (MCVB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAC 2005-62, FAR Case 2012-010 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Corrigan, Procurement Analyst, at 202-208-1963 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-62, FAR Case 2012-010.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are publishing this interim rule amending the FAR to implement the requirements of section 801 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110-181), as amended, (10 U.S.C. 2304 note).

Section 801 of the NDAA for FY 2008, titled “Internal Controls for Procurement on Behalf of the Department of Defense by Certain Nondefense Agencies,” defines in general terms the “procurement policies, procedures, and internal controls” that constitute compliance with defense procurement requirements by a nondefense agency when it procures supplies and services on behalf of the DoD. Section 801(b) states, in part, that unless waived, a DoD acquisition official may place an order, make a purchase, or otherwise procure property or services for DoD in excess of the simplified acquisition threshold through a nondefense agency only if the nondefense agency conducting the acquisition on DoD’s behalf has certified

that it will comply with defense procurement requirements for that fiscal year.

Section 804 of the Duncan Hunter NDAA for FY 2009 (Pub. L. 110-417) amended the list of covered nondefense agencies established in previous NDAs, and established deadlines for reviews of covered nondefense agencies. (The term “covered nondefense agency” is included in the definition of nondefense agencies of section 801 of the NDAA for FY 2008.)

Section 806 of the NDAA for FY 2010 (Pub. L. 111-84), titled “Treatment of Nondefense Agency Procurements Under Joint Programs with Intelligence Community,” amended section 801(b) of the NDAA for FY 2008 by authorizing exclusions from section 801 internal control limitations for contracts entered into under joint programs for DoD and non-DoD elements of the intelligence community.

Section 817 of the NDAA for FY 2012 (Pub. L. 112-81), titled “Compliance with Defense Procurement Requirements for Purposes of Internal Controls of Nondefense Agencies for Procurements of Behalf of the Department of Defense,” amended section 801(d) of the NDAA for FY 2008 (10 U.S.C. 2304 note) to provide clarifying language that identifies the types of laws and regulations with which nondefense departments and agencies must comply when procuring supplies and services on behalf of DoD. Specifically, section 817 clarifies that the nondefense agency certification of “compliance with defense procurement requirements” for a given fiscal year means compliance with (1) the FAR and other laws and regulations that apply to procurements of property and services by Federal agencies, and (2) laws and regulations (including DoD financial management regulations) that apply to procurements of property and services made by DoD through other Federal agencies.

This interim rule makes the following changes:

- Clarifies FAR 4.603(c) regarding the allocation of socioeconomic credit to the requesting agency for assisted acquisitions.

- Adds to FAR 17.500(a) a cross-reference to the new FAR subpart 17.7 for additional requirements for nondefense agencies when acquiring supplies and services on behalf of DoD;

- Adds to FAR 17.502-1(b)(1)(i) a requirement for written confirmation by the requesting agency to the servicing agency in the event there are no agency unique requirements beyond the FAR that apply to an assisted acquisition.