

not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 4, 2010.

**Lawrence E. Starfield,**

*Acting Regional Administrator, EPA Region 6.*

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

#### PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

#### Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended by removing “Rogers Road Municipal Landfill”, “Jacksonville, Arkansas”.

[FR Doc. 2010–19924 Filed 8–11–10; 8:45 am]

BILLING CODE 6560–50–P

#### GENERAL SERVICES ADMINISTRATION

#### 48 CFR Parts 541 and 552

[GSAR Amendment 2010–04; GSAR Case 2008–G511 (Change 47) Docket 2009–0008; Sequence 1]

RIN 3090–A185

#### General Services Administration Acquisition Regulation; Rewrite of GSAR Part 541, Acquisition of Utility Services

**AGENCIES:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to improve the acquisition of utility services. Two clauses specific to utility services are being added to this part, they are the availability of funds clause

which replaces the FAR clause and the disputes clause which supplements the FAR clause.

**DATES:** *Effective Date:* September 13, 2010.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Lori Sakalos, Procurement Analyst, at (202) 208–0498. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (MVCB), Room 4041, 1800 F Street, NW., Washington, DC 20405, (202) 501–4755. Please cite Amendment 2010–04, GSAR case 2008–G511 (Change 47).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This rule is part of the GSAM Rewrite Project to revise the regulation in order to maintain consistency with the Federal Acquisition Regulation (FAR), update regulations, and implement streamlined and innovative acquisition procedures. The GSA Acquisition Manual (GSAM) incorporates the GSAR as well as internal agency acquisition policy.

On February 15, 2006, GSA published in the **Federal Register** at 71 FR 7910, an Advanced Notice of Proposed Rulemaking (ANPR) with a request for comments on the entire GSAM. As a result, no public comments were received on GSAR part 541. In addition, applicable statutes, GSA Acquisition Letters, Public Buildings Service (PBS) Procurement Instructional Bulletins, and GSA delegations of authority were considered in developing the initial draft. Prior to publication of a proposed rule, there was internal review and comment.

The proposed rule aligned GSAR part 541 to the structure of FAR part 41. This rule added GSA-unique clauses in GSAR Subpart 541.5—Solicitation Provisions and Contract Clauses.

Two GSA-unique clauses are prescribed under GSAR subpart 541.5. These clauses are outlined in GSAR section 541.501, Solicitation provisions and contract clauses, and shall be inserted by contracting officers in all utility contracts and solicitations. The first clause, GSAR 552.241–70, Availability of Funds for the Next Fiscal Year or Quarter is added as regulatory text for inclusion in all GSA utility solicitations and contracts instead of FAR 52.239–19. The second clause, GSAR 552.241.71/552.233–71, Disputes (Utility Contracts), was relocated from GSAM part 533 and added to this subpart to specifically align with utility acquisitions.

#### Discussion of Comments

A proposed rule for GSAR part 541 was published in the **Federal Register** on May 19, 2009, at 74 FR 23374. The public comment period for GSAR part 541 closed on July 20, 2009. A total of 2 comments were received by the close of the comment period.

**Comment:** One commenter stated that the proposed rule adds a new clause GSAR “552.241–xx, Availability of Funds for the Next Fiscal Year or Quarter” and FAR 52.232–19 is not currently used in Utility contracts (which generally last for many years) since the clause is to be used in one-year IDIQ or requirements contracts which cross fiscal years. The respondent would like to use GSAR 552.232–73, which doesn’t require fill-ins instead of the new clause added to GSAR part 541.

**Response:** GSA does not concur with the commenter. The new clause is specific to utility acquisitions and is not intended to be limited to a one-year acquisition. Furthermore, the clause at GSAR 552.232–73 that the commenter would prefer to use was deleted from the GSAR on recommendation of GSA’s Office of General Counsel. The new clause has fill-ins for the contracting officer which can coincide with the acquisitions period of performance.

Since this is a utilities contract, the explicit language in 31 U.S.C. 1308 allows GSA to obligate and record amounts quarterly (in accordance with our apportionment). This satisfies the recordation statute.

Additionally, in order to limit GSA’s legal liability to the contractor and satisfy the Anti-Deficiency Act (ADA), GSA has to have an ADA clause that sets limits on the amount of our liability (either by amount of money or by set period of time) and the clause must provide that the limit can only be increased by affirmative action of the Government.

**Comment:** The second commenter stated that the proposed rule moves the existing GSAR clause 552.233–71 (Disputes-Utilities Contracts) from GSAR part 533 to GSAR part 541.

However, preceding GSAR change #24, which is the rewrite of GSAR part 533, deleted the clause in entirety since the use of FAR clauses is preferred. The subject clause was deleted from the Public Building Service (PBS) contract writing system clause module. In the meantime, there is no authority to use the clause in the GSAR and no prescription to use it.

**Response:** GSA does not concur with the commenter. There are no FAR clauses which adequately address disputes for utility contracts. However,

GSAR 552.241–71 (currently GSAR 552.233–71) will be relocated to this part. All clauses relevant to utilities contracts will now be located in GSAR part 541. The rewrite of GSAR part 541 will provide an authority and prescription for use. After publication of this rule, PBS can add the clause back in their contract writing system.

This is not a significant regulatory action and, therefore, was not 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.

## B. Regulatory Flexibility Act

The General Services Administration certifies 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 revisions are not considered substantive. The revisions only update and reorganize existing coverage.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. chapter 35, *et seq.*

## List of Subjects in 48 CFR Parts 541 and 552

Government procurement.

Dated: August 4, 2010.

**Joseph A. Neurauter,**  
Senior Procurement Executive, Office of Acquisition Policy, General Services Administration.

- Therefore, GSA amends 48 CFR chapter V as set forth below:
- 1. Add part 541 to read as follows:

## PART 541—ACQUISITION OF UTILITY SERVICES

### Subpart 541.5—Solicitation Provisions and Contract Clauses

Sec.

541.501 Solicitation provision and contract clauses.

Authority: 40 U.S.C. 121(c).

### Subpart 541.5—Solicitation Provisions and Contract Clauses

#### 541.501 Solicitation provisions and contract clauses.

In addition to the solicitation terms, provisions and contract clauses at FAR 41.501(c), the contracting officer shall include the following clauses—

(a) *552.241–70, Availability of Funds for the Next Fiscal Year or Quarter.* As prescribed in 541.501, insert the clause 552.241–70, Availability of Funds for the Next Fiscal Year or Quarter, instead of FAR 52.232–19, in all utility acquisitions; and

(b) *552.241–71, Disputes (Utility Contracts).* As prescribed in 541.501, insert clause 552.241–71, Disputes (Utility Contracts), in solicitations and contracts for utility services subject to the jurisdiction and regulation of a utility rate commission.

- 2. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

## PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 3. Add sections 552.241–70 and 552.241–71 to read as follows:

### 552.241–70, Availability of Funds for the Next Fiscal Year or Quarter.

As prescribed in 541.501, insert the clause 552.241–70, Availability of Funds for the Next Fiscal Year or Quarter, instead of FAR 52.232–19, in all utility acquisitions.

Availability of Funds for the Next Fiscal Year or Quarter (AUG 2010)

Funds are not presently available for performance under this contract beyond \_\_\_\_\_. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond \_\_\_\_\_, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

### 552.241–71 Disputes (Utility Contracts).

As prescribed in 541.501, insert clause 552.241–71, Disputes (Utility Contracts), in solicitations and contracts for utility services subject to the jurisdiction and regulation of a utility rate commission.

Disputes (Utility Contracts) (AUG 2010)

The requirements of the Disputes clause at FAR 52.233–1 are supplemented to provide that matters involving the interpretation of tariffed retail rates, tariff rate schedules, and tariffed terms provided under this

contract are subject to the jurisdiction and regulation of the utility rate commission having jurisdiction.  
(End of clause)

[FR Doc. 2010–19724 Filed 8–11–10; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### 48 CFR Chapter 14

RIN 1093–AA11

### Acquisition Regulation Rewrite

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

**SUMMARY:** The Department of the Interior (DOI) has adopted as final an interim rule amending the Department of the Interior Acquisition Regulation (DIAR). This action revises the DIAR, 48 CFR chapter 14, but does not impose any new requirements on DOI contractors. The revisions to the DIAR published in the interim rule became effective May 17, 2010.

**DATES:** This rule is effective on August 12, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Tiffany A. Schermerhorn, Senior Procurement Analyst, Office of Acquisition and Property Management, Office of the Secretary, telephone (202) 513–0747, fax (202) 219–4244, or e-mail [tiffany\\_schermerhorn@ios.doi.gov](mailto:tiffany_schermerhorn@ios.doi.gov).

#### SUPPLEMENTARY INFORMATION:

DOI published an interim final rule in the **Federal Register** at 75 FR 19828 on April 15, 2010, to revise the Department of the Interior Acquisition Regulation (DIAR) in order to update references to other Federal and Departmental directives, remove obsolete material and references, and clarify and streamline internal policies and procedures.

The comment period closed June 14, 2010. No public comments were received. DOI has concluded that the interim rule should be adopted as a final rule with no changes.

### List of Subjects in 48 CFR Chapter 14

Government procurement.

- Accordingly, the interim rule published in the **Federal Register** at 75 FR 19828 on April 15, 2010, is adopted as final without change.

Dated: August 3, 2010.

**Pamela K. Haze,**

Deputy Assistant Secretary, Budget, Finance, Performance and Acquisition.

[FR Doc. 2010–19891 Filed 8–11–10; 8:45 am]

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