

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3009, 3010, 3011, 3012, 3013, 3015, 3016, 3017, 3018, 3019, 3022, 3023, 3024, 3025, 3027, 3028, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3042, 3046, 3047, 3052, and 3053

[HSAR Case 2016–001]

Homeland Security Acquisition Regulation; Administrative Matters

AGENCY: Office of the Chief Procurement Officer, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: This final rule amends the Homeland Security Acquisition Regulation (HSAR) to conform references throughout the HSAR to the Positive Law Codification of Title 41, and to provide needed editorial changes. This final rule does not alter substantive rights or obligations under current law.

DATES: This final rule is effective on May 3, 2021.

FOR FURTHER INFORMATION CONTACT: Nancy Harvey, Procurement Analyst, DHS, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, (202) 642–0500 or email HSAR@hq.dhs.gov. When using email, include HSAR Case 2016–001 in the “Subject” line.

SUPPLEMENTARY INFORMATION:

I. Background

On January 4, 2011, Public Law 111–350 enacted a new codified version of Title 41 United States Code (U.S.C.), entitled “Public Contracts.” The purpose of this final rule is to update all references to Title 41 in the HSAR to conform to the positive law codification and to implement technical updates throughout the HSAR. The HSAR establishes uniform policies and procedures for all acquisition activities within DHS. The edits made by this rule are entirely administrative and technical in nature and will not result in any substantive effects on DHS or other entities.

II. Discussion and Analysis

DHS amends the HSAR as follows:

1. Numerous corrections to authority citations to conform the HSAR to the Positive Law Codification of Title 41, United States Code, “Public Contracts.” The codification of Title 41 was enacted on January 4, 2011.

2. Other technical corrections not as a result of the Title 41 recodification, include the following:

a. The position title “Contracting Officer’s Technical Representative” is replaced with “Contracting Officer’s Representative”, and the abbreviation “COTR” is replaced with “COR” throughout the HSAR for consistency with the FAR.

b. Section 3001.105–2 is revised to add U.S. Citizenship and Immigration Services as a DHS Component;

c. Section 3001.105–3 is revised to remove an outdated Uniform Resource Locator (URL) and clarify where to access the HSAR in electronic form.

d. Section 3001.304 is revised to:

1. In paragraph (a), make editorial changes to clarify the Component procedures for incorporating Component-specific regulations or provisions and clauses the Component intends to use on a repetitive basis into the HSAR. The term “supplement” is used in paragraph (a) multiple times and in different ways, making the instructions difficult to follow. In addition, the text is clarified to specify who signs Component-specific regulations, as well as other internal procedures.

2. In paragraph (c), make editorial changes to clarify that the HSAR is the agency acquisition regulation for which the CPO approves the incorporation of proposed regulatory coverage.

e. Section 3002.101 is revised to (1) identify, in the definition of Component, U.S. Citizenship and Immigration Services (USCIS) as a DHS Component; (2) add the title of the Head of the Contracting Activity (HCA) for USCIS to the list of DHS HCAs; (3) clarify the definition of legal counsel to include Component legal offices; and (4) update the definition of Senior Procurement Executive for consistency with DHS delegations.

f. Section 3002.270 is revised to:

1. Remove “COTR Contracting Officer’s Technical Representative”. The abbreviation and term are obsolete.

2. Remove “KO Contracting officer.” The abbreviation does not appear in the HSAR.

g. Section 3003.101–3 is amended to add a reference to the more recently issued DHS supplemental ethics regulation at 5 CFR part 4601.

h. Section 3003.1003, paragraph (a), is revised to add a direct link to the electronic contractor disclosure form.

i. Section 3005.9000 is revised to remove the reference to 6 U.S.C. 552(d). Section 3005.9000 covers publicizing United States Coast Guard (USCG) personal services contracts. USCG is authorized to issue personal services

contracts for medical and dental care under 10 U.S.C. 1091. Section 1091, however, during the early transition period of DHS, identified USCG as a Department of Transportation component. During this transition period, 6 U.S.C. 552(d) was used to identify newly transferred Components that appeared in statutes, documents, executive orders, regulations, etc., as part of other agencies, as DHS Components. Section 1091 has since been revised and now the USCG correctly appears under the jurisdiction of DHS. As a result, the reference to 6 U.S.C. 552(d) in this section is no longer necessary.

j. In section 3006.302–270, paragraphs (d)(1)(iii)(A) and (B), the reference to <http://www.fema.gov/news/disasters.fema#sev2> is removed as the page no longer exists and the link is unnecessary.

k. Section 3009.108–7005 is revised to replace “Clause” in the section header with “Provision”, and to remove “and contracts” at the end of the paragraph. In accordance with FAR part 2, Definitions, a *contract clause* is a term or condition used in contracts or in both solicitations and contracts, that apply after contract award or both before and after award. Alternatively, a *provision* is a term or condition used only in solicitations and that applies only before contract award. Section 3009.108–7005 prescribes instructions covering the use of section 3052.209–70, and references it as a clause. However, section 3052.209–70 is a provision because it is a term that is used only in solicitations, before contract award. For this reason, the reference in section 3009.108–7005 to section 3052.209–70 as a provision in all solicitations *and contracts* is inaccurate.

l. Section 3009.470–1 is revised to correct the spelling of “sub-elements.”

m. Section 3009.507–1 is revised to replace “provision” in the header and in the first sentence, to read “clause.” As noted above, in accordance with FAR part 2, Definitions, a *contract clause* is a term or condition used in contracts or in both solicitations and contracts, that apply after contract award or both before and after award. Alternatively, a *provision* is a term or condition used only in solicitations and that applies only before contract award. Section 3009.507–1 prescribes instructions covering the use of section 3052.209–72, and references it as a provision. However, section 3052.209–72 is a clause because it is a term that is used in both solicitations and contracts, that is, both before and after contract award. For this reason, the reference in section

3009.507–1 to section 3052.209–70 as a provision is inaccurate.

n. Subpart 3011.6, consisting of section 3011.602, is removed and reserved. DHS Delegation 9053, Delegation of Authority Regarding the Defense Priorities and Allocations System, delegates certain authorities under the Department of Commerce's Defense Priorities and Allocations System (DPAS) Delegation 4 to designated officials within DHS. Subpart 3011.6 does not list all of the enumerated parties in the Delegation. Because this guidance is already included in DHS Delegation 9053, this subpart is no longer needed.

o. Section 3018.109 is revised to remove “(See (HSAR) 48 CFR 3011.602.)” for consistency with the revisions described above with respect to 48 CFR 3011.602.

p. Section 3022.101–70, paragraph (b), is revised to replace the word “coordinator” with “advisor” in the first sentence to correct the DHS labor advisor's position title.

q. Section 3022.406–9, paragraph (c)(1) is amended to replace “Comptroller General” with “Secretary of Labor”, and to remove the last sentence of the paragraph in its entirety. FAC 2005–78, effective December 16, 2014, amended FAR 22.406–9 to implement Public Law 113–50, which transferred certain authorities for construction wage under-payments from the Government Accountability Office to the Department of Labor by requiring that wage underpayments be sent to the Secretary of Labor, and by removing standard form (SF) 1093 from the FAR.

r. Section 3023.1004 is amended to (1) correct the titles of “DHS Directive 023–02 Environmental Compliance Program” and “DHS Directive 025–01, Sustainable Practices for Environmental Energy and Transportation.” The correct titles are, respectively, “DHS Directive 023–02, Environmental Management Program” and “DHS Directive 025–01, Sustainable Practices.” In addition, in the second sentence, the rule is amended to (a) replace the term “green purchasing” with “sustainable acquisition” for consistency with FAR part 23 and DHS Directive 025–01, and (b) remove a reference to an obsolete Executive Order.

s. Section 3024.203 is revised to add an “s” at the end of the word “request”.

t. Section 3033.211 is revised to clarify the methods of delivery for submitting claims or disputes to the Civilian Board of Contract Appeals (CBCA).

u. Section 3046.790–2 is amended in the definition for “At no additional cost

to the Government” to add a hyphen between “fixed” and “price”.

v. For part 3052:

(1) Section 3052.101 is amended to, in the Note, update a URL and remove an outdated reference.

(2) Section 3052.203–70 is revised to clarify the instructions for submitting disclosures of violations and the method for submitting disclosures.

(3) Section 3052.209–70 is revised in the introductory paragraph, in the introductory paragraph for paragraph (b), and at the end of the provision, to remove “clause” and replace it with “provision”.

(4) Section 3052.209–71, paragraph (a), is revised to correct the spelling of “sub-elements”.

(5) Section 3052.209–72 is revised to remove the word “provision”, and replace it with the word “clause” in the introductory paragraph, and in paragraphs (c), (d) and (f). In accordance with FAR part 2, Definitions, a *contract clause* is a term or condition used in contracts or in both solicitations and contracts, that applies after contract award or both before and after award. Alternatively, a *provision* is a term or condition used only in solicitations and that applies only before contract award. Section 3052.209–72, paragraphs (f) and (g), prescribe terms to which the contractor must comply post-award. Therefore, section 3052.209–72 is a clause.

(6) The lists in section 3052.212–70 are corrected to properly identify provisions and clauses. Section 3052.212–70 is also corrected to add 3052.205–70, Alternate I, to the list of provisions and clauses. While section 3052.205–70 is listed, 3052.205–70, Alternate I, is not. Because section 3052.205–70 is listed, its alternate must be as well.

(7) Section 3052.217–96, in paragraph (b), is revised to remove “s” at the end of the term “equipments”.

(8) Section 3052.219–71, in the introductory paragraph, is revised to redesignate the paragraph for consistency with HSAR Case 2017–001, Rescinding Department of Homeland Security Acquisition Regulation (HSAR) Clause 3052.219–70, Small Business Subcontracting Plan Reporting.

(9) Section 3052.219–72, in the introductory paragraph, is revised to redesignate the paragraph for consistency with HSAR Case 2017–001, Rescinding Department of Homeland Security Acquisition Regulation (HSAR) Clause 3052.219–70, Small Business Subcontracting Plan Reporting.

w. Section 3053.303 is amended to update the URL to access DHS forms.

III. Notice and Comment

This rule makes administrative changes that do not require notice and comment procedures, consistent with 41 U.S.C. 1707, 48 CFR 1.301, and related authority. The changes will not have a significant effect on any party, and will not have a significant cost or administrative impact on contractors or offerors.

IV. Executive Orders 12866 and 13563

Executive Orders 13563 (“Improving Regulation and Regulatory Review”) and 12866 (“Regulatory Planning and Review”) direct agencies to assess the 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

DHS has determined that the rule will not create an economic impact. The changes made by this rule are entirely administrative and technical in nature and will not result in any substantive effects on DHS or other entities.

V. Regulatory Flexibility Act

As noted above, the administrative changes made by this rule do not require notice-and-comment rulemaking. Accordingly, the procedural requirements of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 604, 48 CFR 1.301(c).

VI. Paperwork Reduction Act

This 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).

List of Subjects

48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3009, 3010, 3011, 3012, 3013, 3015, 3016, 3017, 3018, 3019, 3022, 3023, 3024, 3025, 3027, and 3028

Government procurement.

48 CFR Parts 3030, 3031, and 3032

Accounting, Government procurement.

48 CFR Parts 3033, 3034, 3035, 3036, and 3037

Government procurement.

48 CFR Part 3042

Accounting, Government procurement.

48 CFR Part 3046, 3047, 3052, and 3053

Government procurement.

Soraya Correa,

Chief Procurement Officer, Department of Homeland Security.

For reasons set out in the preamble, DHS amends chapter 30 of title 48 of the Code of Federal Regulations as set forth below.

PART 3001—FEDERAL ACQUISITION REGULATIONS SYSTEM

- 1. Revise the authority citation for part 3001 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

- 2. Amend section 3001.105–2 by adding an entry in alphabetical order for “U.S. Citizenship and Immigration Services (USCIS)” in paragraph (a) to read as follows:

3001.105–2 Arrangement of regulations.

(a) * * *

U.S. Citizenship and Immigration Services (USCIS);

* * * * *

- 3. Revise section 3001.105–3 to read as follows:

3001.105–3 Copies.

Official versions of the HSAR are available in the Code of Federal Regulations, as supplemented and revised from time to time by the **Federal Register**, both of which are available from the Government Publishing Office in paper form. The HSAR is also available in electronic form at <https://www.ecfr.gov/>. The Homeland Security Acquisition Manual (HSAM), which complements the HSAR, can also be found at <http://www.dhs.gov>.

- 4. Revise section 3001.304 to read as follows:

3001.304 Agency control and compliance procedures.

(a) The HSAR is under the direct oversight and control of the DHS, Office of the Chief Procurement Officer (OCPO), which is responsible for evaluation, review, and issuance of all Department-wide acquisition regulations and guidance in accordance with DHS regulatory clearance procedures, as applicable. Each HCA may supplement the HSAR with

internal Component issued guidance that does not go beyond internal operating procedures and does not have a significant cost or administrative impact on contractors or offerors. Supplementation should be kept to a minimum. Any Component that seeks a component-specific regulation or that intends to use a solicitation provision or a contract clause on a repetitive basis must prepare and coordinate a draft rule with Component legal counsel and obtain HCA approval, which is non delegable. The HCA must forward the draft rule to the CPO for concurrence prior to further action in accordance with DHS regulatory clearance procedures. If approved, the CPO or designee, will sign the Component-specific regulation and it will be integrated into the HSAR.

(b) [Reserved]

(c) The CPO is responsible for evaluating all proposed regulatory coverage in the HSAR to determine if the substance could apply to other agencies and to make recommendation for inclusion in the FAR.

PART 3002—DEFINITIONS OF WORDS AND TERMS

- 5. Revise the authority citation for part 3002 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

- 6. Amend section 3002.101 by revising the definitions of “Component”, “Head of the Contracting Activity (HCA)”, “Legal counsel”, and “Senior Procurement Executive (SPE) for the Department of Homeland Security” to read as follows:

3002.101 Definitions.

* * * * *

Component means the following entities for purposes of this chapter:

- (1) DHS Management (MGMT), including the Office of Procurement Operations (OPO) and the Office of Selective Acquisitions (OSA);
- (2) Federal Emergency Management Agency (FEMA);
- (3) Federal Law Enforcement Training Center (FLETC);
- (4) Transportation Security Administration (TSA);
- (5) U.S. Citizenship and Immigration Services (USCIS);
- (6) U.S. Coast Guard (USCG);
- (7) U.S. Customs and Border Protection (CBP);
- (8) U.S. Immigration and Customs Enforcement (ICE); and
- (9) U.S. Secret Service (USSS).

* * * * *

Head of the Contracting Activity (HCA) means the official who has overall responsibility for managing the contracting activity. For DHS, the HCAs are:

- (1) Director, Office of Procurement Operations (OPO);
- (2) Director, Office of Selective Acquisitions (OSA);
- (3) Director, Office of Acquisition Management (FEMA);
- (4) Chief, Procurement Division (FLETC);
- (5) Assistant Administrator for Contracting & Procurement (TSA);
- (6) Chief, Office of Contracting (USCIS);
- (7) Director of Contracting and Procurement (USCG);
- (8) Deputy Assistant Commissioner, Office of Acquisition (CBP);
- (9) Director, Office of Acquisition Management (ICE); and
- (10) Chief, Procurement Operations (USSS).

* * * * *

Legal counsel means the Department of Homeland Security Office of the General Counsel, which includes Component offices providing legal services to the contracting organization.

* * * * *

Senior Procurement Executive (SPE) for the Department of Homeland Security means the individual appointed pursuant to 41 U.S.C. 1702(c). The SPE is responsible for the management direction of the procurement system of DHS, including implementation of the unique procurement policies, regulations, and standards of DHS. The DHS Chief Procurement Officer (CPO) is the SPE for DHS and is the only individual within DHS that bears the title of the CPO.

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3002.270 [Amended]

- 7. Amend section 3002.270 by removing the entries for “COTR Contracting Officer’s Technical Representative” and “KO Contracting officer” from the list.

PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

- 8. Revise the authority citation for part 3003 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3003.101–3 [Amended]

- 9. Amend 3003.101–3 by removing the words “Management Directive

0480.1, Ethics/Standards of Conduct” and adding the words “a supplemental ethics regulation at 5 CFR part 4601 and Management Directive 0480.1, Ethics/Standards of Conduct” in their place.

3003.1003 [Amended]

■ 10. Amend 3003.1003, in paragraph (a), by adding “or <https://www.oig.dhs.gov/reports/publications/annual/contractor-disclosure>” after “<http://www.oig.dhs.gov>”.

PART 3004—ADMINISTRATIVE MATTERS

■ 11. Revise the authority citation for part 3004 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3005—PUBLICIZING CONTRACT ACTIONS

■ 12. Revise the authority citation for part 3005 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3005.9000 [Amended]

■ 13. Amend section 3005.9000 by removing “as amended by section 1512(d) of the Homeland Security Act, 6 U.S.C. 552(d),”.

PART 3006—COMPETITION REQUIREMENTS

■ 14. Revise the authority citation for part 3006 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3006.302–270 [Amended]

■ 15. Amend section 3006.302–270, in paragraphs (d)(1)(iii)(A) and (B), by removing “(see <http://www.fema.gov/news/disasters.fema#sev2> for a list of declarations)”.

PART 3007—ACQUISITION PLANNING

■ 16. Revise the authority citation for part 3007 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3009—CONTRACTOR QUALIFICATIONS

■ 17. Revise the authority citation for part 3009 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 18. Amend section 3009.108–7005 by:

- a. Revising the section heading; and
- b. Removing the words “and contracts” at the end of the section.

The revision reads as follows:

3009.108–7005 Provision.

* * * * *

3009.470–1 [Amended]

■ 19. Amend 3009.470–1 by removing “subelements” and adding “sub-elements” in its place.

■ 20. Amend 3009.507–1 by:

- a. Revising the section heading; and
- b. Removing the word “provision” in the first sentence and adding the word “clause” in its place.

The revision reads as follows:

3009.507–1 Solicitation clause.

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PART 3011—DESCRIBING AGENCY NEEDS

■ 21. Revise the authority citation for part 3011 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

Subpart 3011–6 [Removed and Reserved]

■ 22. Subpart 3011.6, consisting of section 3011.602, is removed and reserved.

PART 3012—ACQUISITION OF COMMERCIAL ITEMS

■ 23. Revise the authority citation for part 3012 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3013—[REMOVED AND RESERVED]

■ 24. Under the authority of 41 U.S.C. 1702, part 3013 is removed and reserved.

PART 3015—CONTRACTING BY NEGOTIATION

■ 25. Revise the authority citation for part 3015 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3016—TYPES OF CONTRACTS

■ 26. Revise the authority citation for part 3016 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3017—SPECIAL CONTRACTING METHODS

■ 27. Revise the authority citation for part 3017 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3018—EMERGENCY ACQUISITIONS

■ 28. Revise the authority citation for part 3018 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3018.109 [Amended]

■ 29. Amend 3018.109 by removing “(See (HSAR) 48 CFR 3011.602.)”.

PART 3019—SMALL BUSINESS PROGRAMS

■ 30. Revise the authority citation for part 3019 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3022—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 31. Revise the authority citation for part 3022 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3022.101–70 [Amended]

■ 32. Amend 3022.101–70, in the first sentence in paragraph (b), by removing “DHS labor coordinator” and adding “DHS labor advisor” in its place.

■ 33. Amend 3022.406–9 by revising paragraph (c)(1) to read as follows:

3022.406–9 Withholding from or suspension of contract payments.

(c) * * *

(1) Forwarding wage underpayments to the Secretary of Labor. The contracting officer shall ensure that a completed DHS Form 700–4, Employee Claim for Wage Restitution, is obtained from each employee claiming restitution under the contract.

PART 3023—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 34. Revise the authority citation for part 3023 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

- 35. Revise section 3023.1004 to read as follows:

3023.1004 Requirements.

DHS Directive 023–02, Environmental Management Program, provides guidance and direction for compliance with environmental laws, regulations and executive orders. DHS Directive 025–01, Sustainable Practices, provides guidance and direction for compliance with sustainable acquisition and other sustainable practices. Contracting officers shall ensure that solicitations and contracts contain appropriate sustainable practices requirements, provisions and clauses. Contractors shall comply with the DHS sustainable acquisition and environmental policy by taking appropriate actions to eliminate or reduce their impacts on the environment.

PART 3024—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

- 36. Revise the authority citation for part 3024 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3024.203 [Amended]

- 37. Amend section 3024.203, in the second sentence in paragraph (a), by removing “request” and adding “requests” in its place.

PART 3025—FOREIGN ACQUISITION

- 38. Revise the authority citation for part 3025 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3027—PATENTS, DATA, AND COPYRIGHTS

- 39. Revise the authority citation for part 3027 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3028—BONDS AND INSURANCE

- 40. Revise the authority citation for part 3028 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3030—COST ACCOUNTING STANDARDS ADMINISTRATION

- 41. Revise the authority citation for part 3030 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3031—CONTRACT COST PRINCIPLES AND PROCEDURES

- 42. Revise the authority citation for part 3031 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3032—CONTRACT FINANCING

- 43. Revise the authority citation for part 3032 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3033—PROTESTS, DUTIES, AND APPEALS

- 44. Revise the authority citation for part 3033 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

- 45. Revise section 3033.211 to read as follows:

3033.211 Contracting officer’s decision.

For DHS contracts, the Board of Contract Appeals (BCA) noted in (FAR) 48 CFR 33.211 is the Civilian Board of Contract Appeals (CBCA). The Board’s address for each method of filing is as follows:

- (a) *For e-file:* cbca.efile@cbca.gov.
- (b) *U.S. Postal Service Mail:* 1800 F Street NW, Washington, DC 20405.
- (c) *Overnight or Courier Delivery:* 1800 M Street NW, Room 600 South, Washington, DC 20036.

PART 3034—MAJOR SYSTEM ACQUISITION

- 46. Revise the authority citation for part 3034 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3035—RESEARCH AND DEVELOPMENT CONTRACTING

- 47. Revise the authority citation for part 3035 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

- 48. Revise the authority citation for part 3036 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3037—SERVICE CONTRACTING

- 49. Revise the authority citation for part 3037 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3042—CONTRACT ADMINISTRATION AND AUDIT SERVICES

- 50. Revise the authority citation for part 3042 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

Subpart 3042.70 Contracting Officer’s Representative

- 51. Revise the heading for subpart 3042.70 to read as set forth above.

3042.7000 [Amended]

- 52. Amend section 3042.7000 by removing “Contracting Officer’s Technical Representative” and adding “Contracting Officer’s Representative” in its place.

PART 3046—QUALITY ASSURANCE

- 53. Revise the authority citation for part 3046 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3046.790–2 [Amended]

- 54. Amend section 3046.790–2, in the definition of “At no additional cost to the Government”, by removing “fixed price” and adding “fixed-price” in its place.

PART 3047—TRANSPORTATION

- 55. Revise the authority citation for part 3047 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 56. Revise the authority citation for part 3052 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3052.101 [Amended]

■ 57. Amend section 3052.101, in the note to 3052.101, by removing “<http://www.dhs.gov/xopnbiz/>” under Policy and Regulations, Homeland Security Acquisition Regulation (HSAR)” and adding “<https://www.dhs.gov/publication/hsar-provision-and-clause-matrix>” in its place.

■ 58. Revise 3052.203–70 to read as follows:

3052.203–70 Instructions for Contractor Disclosure of Violations.

As prescribed in (HSAR) 48 CFR 3003.1004(a), insert the following clause:

Instructions for Contractor Disclosure of Violations (Sep 2012)

When making a written disclosure under the clause at FAR 52.203–13, paragraph (b)(3), the Contractor may submit the disclosure to the Department of Homeland Security Office of Inspector General using the methods described at <https://www.oig.dhs.gov/hotline> or <https://www.oig.dhs.gov/reports/publications/annual/contractor-disclosure>, and submit the disclosure electronically to the Department of Homeland Security Office of Inspector General. The Contractor shall provide a copy of the disclosure to the Contracting Officer by email or facsimile on the same business day as the submission to the Office of Inspector General. The Contractor shall provide the Contracting Officer a concurrent copy of any supporting materials submitted to the Office of Inspector General.

(End of clause)

3052.204–71 [Amended]

■ 59. Amend section 3052.204–71, in Alternate I:

■ a. In paragraph (g), by removing “Contracting Officer’s Technical Representative (COTR)” and adding the term “Contracting Officer’s Representative (COR)” in its place; and

■ b. In paragraph (h), in two places, by removing the acronym “COTR” and adding “COR” in its place.

3052.209–70 [Amended]

■ 60. Amend section 3052.209–70, in the introductory text and in paragraphs (a) and (b), by removing the word “clause” and adding the word “provision” in its place.

3052.209–71 [Amended]

■ 61. Amend section 3052.209–71, in paragraph (a), by removing “subelements” and adding “sub-elements” in its place.

3052.209–72 [Amended]

■ 62. Amend section 3052.209–72:

■ a. In the introductory text and paragraphs (c)(2), (d), and (f), by removing the word “provision” and adding the word “clause” in its place; and

■ b. Removing, at the end of the section, “(End of provision)” and adding “(End of clause)” in its place.

■ 63. Amending section 3052.212–70 by revising paragraphs (a) and (b) of the clause to read as follows:

3052.212–70 Contract terms and conditions applicable to DHS acquisition of commercial items.

* * * * *

Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items (Sep 2012)

(a) *Provisions.*

— 3052.216–70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.

— 3052.219–72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.

— 3052.247–70 F.o.B. Origin Information.

— Alternate I

— Alternate II

— 3052.247–71 F.o.B. Origin Only.

— 3052.247–72 F.o.B. Destination Only.

(b) *Clauses.*

— 3052.203–70 Instructions for Contractor Disclosure of Violations.

— 3052.204–70 Security Requirements for Unclassified Information Technology Resources.

— 3052.204–71 Contractor Employee Access.

— Alternate I

— 3052.205–70 Advertisement, Publicizing Awards, and Releases.

— Alternate I

— 3052.209–72 Organizational Conflicts of Interest.

— 3052.209–73 Limitation on Future Contracting.

— 3052.215–70 Key Personnel or Facilities.

— 3052.216–71 Determination of Award Fee.

— 3052.216–72 Performance Evaluation Plan.

— 3052.216–73 Distribution of Award Fee.

— 3052.217–91 Performance. (USCG)

— 3052.217–92 Inspection and Manner of Doing Work. (USCG)

— 3052.217.93 Subcontracts. (USCG)

— 3052.217.94 Lay Days. (USCG)

— 3052.217–95 Liability and Insurance. (USCG)

— 3052.217–96 Title. (USCG)

— 3052.217.97 Discharge of Liens. (USCG)

— 3052.217–98 Delays. (USCG)

— 3052.217–99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)

— 3052.217–100 Guarantee. (USCG)

— 3052.219–71 DHS Mentor Protégé Program.

— 3052.228–70 Insurance.

— 3052.228–90 Notification of Miller Act Payment Bond Protection. (USCG)

— 3052.228–91 Loss of or Damage to Leased Aircraft. (USCG)

— 3052.228.92 Fair Market Value of Aircraft. (USCG)

— 3052.228–93 Risk and Indemnities. (USCG)

— 3052.236–70 Special Provisions for Work at Operating Airports.

— 3052.242–72 Contracting Officer’s Representative.

(End of clause)

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3052.217–92 [Amended]

■ 64. Amend section 3052.217–92, in paragraph (e)(9), by removing the acronym “COTR” and adding “COR” in its place.

3052.217–96 [Amended]

■ 65. Amend section 3052.217–96, in paragraph (b), by removing “equipments” and adding “equipment” in its place.

3052.219–71 [Amended]

■ 66. Amend section 3052.219–71, in the introductory text, by removing “48 CFR 3019.708–70(b)” and adding “48 CFR 3019.708–70(a)” in its place.

3052.219–72 [Amended]

■ 67. Amend section 3052.219–72, in the introductory text, by removing “48 CFR 3019.708–70(c)” and adding “48 CFR 3019.708–70(b)” in its place.

■ 68. Revise section 3052.242–72 to read as follows:

3052.242–72 Contracting officer’s representative.

As prescribed in (HSAR) 48 CFR 3042.7000, insert the following clause:

Contracting Officer’s Representative (Dec 2003)

(a) The Contracting Officer may designate Government personnel to act as the Contracting Officer’s Representative (COR) to perform functions under the contract such as review or inspection and acceptance of supplies, services, including construction, and other functions of a technical nature. The Contracting Officer will provide a written notice of such designation to the Contractor within five working days after contract award or for construction, not less than five working days prior to giving the contractor the notice to proceed. The designation letter will set forth the authorities and limitations of the COR under the contract.

(b) The Contracting Officer cannot authorize the COR or any other representative to sign documents, such as contracts, contract modifications, etc., that require the signature of the Contracting Officer.

(End of clause)

PART 3053—FORMS

■ 69. Revise the authority citation for part 3053 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 70. Amend section 3053.303 by revising the introductory text to read as follows:

2053.303 Agency forms.

This section illustrates agency-specified forms. To access the DHS forms go to <https://www.dhs.gov/publication/acquisition-forms>.

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[FR Doc. 2021–06176 Filed 4–1–21; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 210325–0070]

RIN 0648–BJ93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 34

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing management measures described in Regulatory Amendment 34 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). The final rule will create 34 special management zones (SMZs) around artificial reefs in the exclusive economic zone (EEZ) off North Carolina and South Carolina. The purpose of the final rule is to designate new SMZs and to restrict fishing gear with greater potential to result in high exploitation rates. The restrictions are expected to reduce potentially adverse effects to snapper-grouper species and enhance recreational fishing opportunities at these SMZs.

DATES: The final rule is effective on May 3, 2021.

ADDRESSES: Electronic copies of Regulatory Amendment 34 to the Snapper-Grouper FMP (Regulatory

Amendment 34) may be obtained from www.regulations.gov or from the NMFS Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/regulatory-amendment-34-special-management-zones-smz>. Regulatory Amendment 34 includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Analysis (RFA).

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: rick.devictor@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the snapper-grouper fishery under the Snapper-Grouper FMP. The Snapper-Grouper FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On November 16, 2020, NMFS published the proposed rule for Regulatory Amendment 34 in the **Federal Register** and requested public comment (85 FR 73013). Regulatory Amendment 34 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measure described in Regulatory Amendment 34 and implemented by this final rule is described below.

Background

The purpose of the Council's SMZ designation process and the subsequent specification of SMZs is to protect snapper-grouper populations at the relatively small artificial reef sites in the EEZ and to create fishing opportunities that would not otherwise exist without their designation. Prior to the SMZ designation process established by the Council in 1983, for example, black sea bass pots were used by commercial fishermen to efficiently remove black sea bass from artificial reefs off South Carolina. At the time of the SMZ designation process, the Council determined that because artificial reef sites are small in area due to the limited amount of suitable reef-building material, the sites are vulnerable to overexploitation by more efficient fishing gear that has the potential to result in localized depletion. In addition, the Council wanted to enhance fishing opportunities for the recreational sector through the designation of SMZs. The Council has determined that the harvest and gear restrictions will increase the abundance and size of snapper-grouper species at

the sites, thereby increasing available catch for fishermen, such as those fishing under recreational harvest limits.

The North Carolina Division of Marine Fisheries (NCDMF) and the South Carolina Department of Natural Resources (SCDNR) requested that the Council designate artificial reefs located in the EEZ off their respective coasts as SMZs. Following a review of the requests, the Council developed Regulatory Amendment 34 that would create 34 new SMZs—30 off North Carolina and 4 off South Carolina. The Council determined that the actions in Regulatory Amendment 34 will enhance the fishing experience at the artificial reef sites for recreational fishermen and that will further promote the original intent of North Carolina and South Carolina for placing the artificial reefs at the sites. The purpose of Regulatory Amendment 34 and this final rule is to designate these sites as SMZs and to restrict fishing gear that could result in high exploitation rates to reduce potential adverse biological effects to federally managed snapper-grouper species and enhance recreational fishing opportunities at these sites.

Management Measures Contained in This Final Rule

This final rule creates SMZs in the EEZ off North Carolina and South Carolina. Authorized gear and harvest levels for snapper-grouper species at these new SMZs are also specified by this final rule to reduce potentially adverse biological effects to snapper-grouper species and enhance recreational fishing opportunities.

SMZs off North Carolina

This final rule designates 30 SMZs off North Carolina in the EEZ. The 30 sites are existing artificial reefs permitted by the Army Corps of Engineers. The SMZs match the sizes of the permitted artificial reefs, and range in size from 0.24 to 0.76 square nautical miles or 0.25 to 1.01 square miles (0.82 to 2.6 square km). This final rule establishes that all harvest of snapper-grouper species is allowed only with handline, rod and reel, and spear within the SMZs. Further, in the SMZs off North Carolina, all commercial and recreational harvest of snapper-grouper species by spear is limited to the applicable, existing recreational bag limits, as requested by the NCDMF.

SMZs off South Carolina

This final rule designates four SMZs, in addition to the existing 28 SMZs, off the coast of South Carolina in the EEZ. The four sites are existing artificial reefs