

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add the United States Defense Advanced Research Projects Agency (DARPA) to the list of agencies that have entered into separate tax agreements with the State of New Mexico (NM). The DARPA-NM tax agreement eliminates the double taxation of Government cost-reimbursement contracts when DARPA contractors and their subcontractors purchase tangible personal property to be used in performing services in whole or in part in the State of New Mexico, and for which title to such property will pass to the United States upon delivery of the property to the contractor and its subcontractors by the vendor.

DATES: *Effective date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202-501-3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-60, FAR Case 2012-019.

SUPPLEMENTARY INFORMATION:

I. Background

On August 18, 2011, DARPA and the Taxation and Revenue Department of the State of New Mexico entered into the DARPA-NM tax agreement to eliminate the double taxation of Government cost-reimbursement contracts when DARPA contractors and their subcontractors purchase tangible personal property to be used in performing services in whole or in part in the State of New Mexico and for which title to such property will pass to the United States upon delivery of the property to the contractor and its subcontractors by the vendor.

II. Discussion

The FAR is amended to add the United States Defense Advanced Research Projects Agency to the list of participating agencies under FAR 29.401-4(c). DARPA joins the list of other agencies with existing tax agreements with the State of New Mexico.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and

equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

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

"Publication of proposed regulations", 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it recognizes actions taken by DARPA that do not have a significant effect on contractors or offerors.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision, and 41 U.S.C. 1707 does not require publication for public comment.

VI. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 29

Government procurement.

Dated: July 16, 2012.

Laura Auletta,

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

Therefore, DoD, GSA, and NASA amend 48 CFR part 29 as follows:

PART 29—TAXES

■ 1. The authority citation for 48 CFR part 29 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.

29.401-4 [Amended]

■ 2. Amend section 29.401-4 in paragraph (c)(1) by adding to the listing, in alphabetical order, "United States Defense Advanced Research Projects Agency;".

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Part 53

[FAC 2005-60; FAR Case 2011-022;
Item V; Docket 2011-0093, Sequence IV]

RIN 9000-AM15

**Federal Acquisition Regulation:
Clarification of Standards for
Computer Generation of Forms**

AGENCIES: 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 remove any reference to Federal Information Processing Standard (FIPS) 161 and codify requirements for standards already in use.

DATES: *Effective Date:* August 27, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lague, Procurement Analyst, at 202-694-8149 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-60, FAR Case 2011-022.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 76 FR 79609 on December 22, 2011, to implement the removal of FIPS 161. FIPS 161 is being removed based on the notice posted in the **Federal Register** at 73 FR 51276 on September 2, 2008, by the Department of Commerce. This FIPS requirement was withdrawn by the Secretary of Commerce because it was obsolete and had not been updated to adopt current voluntary industry standards, Federal specifications, Federal data standards, or current good practices for information security. The withdrawal of this standard created a

gap in the FAR. This final rule closes that gap by clarifying the use of American National Standards Institute (ANSI) X12 as the valid standard to use for computer-generated forms. FAR 53.105 is being amended; it will continue allowing agencies and the public to generate standard and optional forms on their computers.

II. Discussion and Analysis

There were no public comments received in response to the proposed rule; therefore, this rule is published as a final rule.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 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, General Services Administration, and 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 it is removing FIPS 161 which is obsolete or has not been updated to adopt current voluntary industry standards, Federal specifications, Federal data standards, or current good practices for information security. This is a technical change acknowledging the removal by the Department of Commerce of FIPS 161 and replacement with the ANSI X12 set of standards. ANSI X12 standards were already a part of the FIPS 161 standard and have been updated with current voluntary industry standards already in use. Therefore, there is no impact to the Government or contractors in establishing ANSI X12 as the new standard. Small businesses will continue to be able to generate forms by computer.

V. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 53

Government procurement.

Dated: July 16, 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 part 53 as follows:

PART 53—FORMS

- 1. The authority citation for 48 CFR part 53 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.

- 2. Revise section 53.105 to read as follows:

53.105 Computer generation.

(a) The forms prescribed by this part may be computer generated—without exception approval (see 53.103), provided—

(1) There is no change to the name, content, or sequence of the data elements, and the form carries the Standard or Optional Form number and edition date (see 53.111); or

(2) The form is in an electronic format covered by the American National Standards Institute (ANSI) X12 Standards published by the Accredited Standards Committee X12 on Electronic Data Interchange or a format that can be translated into one of those standards.

(b) The standards listed in paragraph (a)(2) of this section may also be used for submission of data set forth in other parts for which specific forms have not been prescribed.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 16, 22, and 52

[FAC 2005-60; Item VI; Docket 2012-0079; Sequence 3]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective Date:* July 26, 2012.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1275 First Street NE., 7th Floor, Washington, DC 20417, 202-501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-60, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 1, 16, 22, and 52, this document makes editorial changes to the FAR.

List of Subjects in 48 CFR Parts 1, 16, 22, and 52

Government procurement.

Dated: July 16, 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, 16, 22, and 52 as set forth below:

- 1. The authority citation for 48 CFR parts 1, 16, 22, 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 REGULATIONS SYSTEM

1.105-2 [Amended]

- 2. Amend section 1.105-2 by revising paragraphs (c)(3)(i) and (ii) to read as follows:

1.105-2 Arrangement of regulations.

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(c) * * *

(3) * * *