

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016–0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–92; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–92. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–92 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

RULES LISTED IN FAC 2005–92

Item	Subject	FAR Case	Analyst
I	Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation.	2015–024	Gray.
II	Removal of Regulations Relating to Telegraphic Communication	2015–035	Francis.
III	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–92 amends the FAR as follows:

Item I—Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation (FAR Case 2015–024)

This final rule amends the FAR to establish an annual representation requirement to indicate whether or not and where contractors publicly disclose greenhouse gas emissions and greenhouse gas emission reduction goals or targets. This representation is optional for contractors that received less than \$7.5 million in contract awards from the Government during the previous Federal fiscal year. The information obtained from these representations will assist agencies in developing strategies to engage with contractors to reduce supply chain emissions, as directed in the Executive Order 13693, Planning for Federal Sustainability in the Next Decade.

Item II—Removal of Regulations Relating to Telegraphic Communication (FAR Case 2015–035)

This rule amends the FAR to delete the use of “telegram,” “telegraph,” and related terms. The objective is to delete reference to obsolete technologies no longer in use and replace with

references to electronic communications. In addition, conforming changes are made covering expedited notice of termination and change orders.

The rule is not anticipated to have a significant economic impact on small business entities, as the rule provides recognition of current options for transmitting documents between the Government and contractors. The rule also revises the means of disseminating contract termination documents between the Government and contractors; however, this change only affects the Government’s responsibility for transmitting termination notices.

Item III—Technical Amendments

Editorial changes are made at FAR 2.101, 7.105, 19.1506, 34.000, 34.005–2, 34.201, 34.203, 42.709, 52.234–2, 52.234–3, and 52.234–4.

Dated: November 10, 2016.

William F. Clark,
Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–92 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–92 is effective November

18, 2016 except for items I, and II, which are effective December 19, 2016.

Dated: November 10, 2016.

Claire M. Grady,
Director, Defense Procurement and Acquisition Policy.

Dated: November 10, 2016.

Jeffrey A. Koses,
Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: November 9, 2016.

William P. McNally,
Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.

[FR Doc. 2016–27687 Filed 11–17–16; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 23, and 52

[FAC 2005–92; FAR Case 2015–024; Item I; Docket No. 2015–0024, Sequence No. 1]

RIN 9000–AM90

Federal Acquisition Regulation; Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation

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 establish a representation for offerors to indicate if and where they publicly disclose greenhouse gas emissions and greenhouse gas reduction goals or targets.

DATES: *Effective:* December 19, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gray, Procurement Analyst, at 703-795-6328 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-92, FAR Case 2015-024.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 81 FR 33192 on May 25, 2016, containing a new FAR provision that will enable the Federal Government to better understand the greenhouse gas management practices of its industry partners. In accordance with the provision, offerors seeking to do business with the Federal Government that are registered in the System for Award Management (SAM) database and received \$7.5 million or more in contract awards during the prior Federal fiscal year are required to represent whether or not they publicly disclose their greenhouse gas emissions and their greenhouse gas emissions reduction goals. This representation is voluntary for offerors that received less than \$7.5 million during the prior fiscal year.

The information obtained from these representations will assist agencies in developing strategies to engage with offerors to reduce supply chain emissions, as directed in the Executive Order (E.O.) 13693, Planning for Federal Sustainability in the Next Decade. Seventeen 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 public 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

At FAR 52.212-3, Offeror Representations and Certifications—

Commercial Items, the representation at (t)(2)(i) has been revised to clarify that the Greenhouse Gas Protocol Corporate Standard is an example of a greenhouse gas accounting standard, and that the emissions reduction goals are to be made accessible on a publicly accessible Web site.

At FAR 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, paragraph (b)(1) has been revised to clarify that the Greenhouse Gas Protocol Corporate Standard is intended to serve as an example of a greenhouse gas accounting standard. In paragraph (b)(2) of the same provision, language has been added to clarify that to disclose emissions reduction goals means to make such goals available on a publicly accessible website.

B. Analysis of Public Comments

1. Support for the Rule

Comment: Most respondents expressed their support for the rule.

Response: The Councils appreciate and note the numerous comments supporting this rule.

2. Legal Authority for the Rule

Comment: One respondent believed that the rule is not supported by adequate legal authority, noting that the statement “the rule is not based in statute . . .” appeared in the preamble of the **Federal Register** notice. This respondent further stated that the rule must be based on a grant or rulemaking authority from Congress, and they believed in this instance there is no adequate nexus between the rule and any rulemaking authority granted by Congress.

Response: The authority for this rule is E.O. 13693. The language in question was in relation to 41 U.S.C. 1905, 1906, and 1907, which require a listing of provisions of law that are inapplicable to acquisitions under the simplified acquisition threshold (SAT), or for commercial items including commercially available off-the-shelf (COTS) items.

Statutory rulemaking authority for the FAR is listed in FAR rules as 40 U.S.C. 121(c), 10 U.S.C. chapter 137, and 51 U.S.C. 20113.

3. Concerns Regarding the Need for Public Disclosure and Public Access to Companies’ Greenhouse Gas Emissions Inventory

The concerns expressed by respondents in this area generally fell into four categories: (A) General concerns regarding the clarity of the rule; (B) The use of equivalents to the

Greenhouse Gas Corporate Protocol Standard; (C) Reporting requirements for offeror’s parent company or for companies that are not the owner of facility; and (D) Concerns regarding the proposed reporting thresholds.

(A) General Concerns Regarding the Clarity of the Rule

Comment: Several respondents stated that the rule was unclear regarding its breadth and utility. One respondent commented that such disclosures on a publicly accessible website may compromise trade secrets or be the impetus for an overwhelming number of bid protests and unacceptable delays. Another respondent expressed concern that the Government would capture and use unreliable data generated and reported by a third-party. Others raised concerns regarding the utility to the rule without an industry-by-industry analysis, citing the analytical methodology employed by the Environmental Protection Agency (EPA). Two respondents remarked that the rule was unclear regarding the meaning of the phrase “available on a publicly accessible Web site.”

Response: This rule does not require offerors to disclose greenhouse gas emissions and/or goals; rather, it requires offerors seeking to do business with the Federal Government to represent whether or not they do make such disclosures, and if so, provide the publicly accessible website. As such, the rule will not lead to the inadvertent disclosure of trade secrets by an offeror.

With regard to the reliability of the data obtained, the representation relates only to information made available by the offeror, regardless of where the information is hosted. Since an offeror that responds affirmatively to the representation is also required to provide the website address, the Government will only be directed to the offeror’s publicly accessible information.

This rule does not regulate industry, which is why the analytical techniques employed by the EPA were not used. The purpose of the rule is to obtain a better understanding of Federal supply chain greenhouse gas emissions. Utilizing existing public information significantly reduces the burden on potential offerors while providing useful strategic information and encouraging transparency.

Finally, the plain meaning of the phrase “available on a publicly accessible Web site” is that the information must be accessible to the general public.

(B) Equivalents to the Greenhouse Gas Corporate Protocol Standard

Comment: Many respondents requested that the language, “via a recognized, third-party greenhouse gas emissions reporting program” be updated with language identifying specific reporting programs or additional standards.

Response: In order for the Federal Government to gain insight into its supplier actions, the regulation does not use language that will limit its awareness of greenhouse gas (GHG) management practices; however, the reference to “recognized” standards has been updated in the final rule to “accounting standards with publicly available and consistently applied criteria” in order to provide clarity to respondents while allowing insight into any accounting methods used. The standard was intentionally left open, so as not to require any specific accounting or reporting methodology.

To further clarify this intent, the language in the final rule has been amended to state that the Greenhouse Gas Protocol Corporate Standard is intended to serve as an example of greenhouse gas accounting standard, rather than the only acceptable standard.

(C) Reporting Requirements for Offerors’ Parent Company or for Companies That Are Not the Owner of the Facility

Comment: Many respondents sought clarification as to an offeror’s obligation to report on the greenhouse gas emissions management practices of its parent or controlling entity or when it is not the owner of the facility.

Response: The rule does not obligate offerors to report on the emissions of their parent companies or the emissions management practices of a facility that they do not own.

(D) Concerns Regarding the Proposed Reporting Thresholds

Comment: Although there was support for the \$7.5 million threshold, recognizing that it extends to a variety of companies with regard to type, size, and location, a few comments suggested that the \$7.5 million threshold was not the best definitive characterization for reporting. Alternative reporting delineations proposed were an annual facility emission of 25,000 tons or more of CO₂ or identification by North American Industry Classification System (NAICS) codes to eliminate small businesses and non-greenhouse gas emitting industries.

Response: In order to gain insight into its supplier actions, the Government

does not want to limit its awareness of greenhouse gas management practices by limiting the information to specific emissions thresholds (such as 25,000 tons of CO₂) or NAICS codes. In particular, the use of NAICS codes in this context may impose artificial limitations; when registering in the SAM, offerors select their primary NAICS code, even though they can and do work in other areas.

4. Nitrogen Trifluoride Should Not Be Identified in the FAR as a Greenhouse Gas

Comment: One respondent remarked that the proposal to include nitrogen trifluoride in the definition for greenhouse gases at FAR 23.001 should be withdrawn since, unlike the other six greenhouse gases already listed in the FAR, nitrogen trifluoride is not directly emitted (the direct result of human activity) and therefore cannot be identified and quantified for reporting purposes.

Response: Section 19 of E.O. 13693 identifies nitrogen trifluoride as a greenhouse gas, and for this reason the definition for greenhouse gas at FAR 23.001 includes nitrogen trifluoride.

5. Rule is Vague Regarding Requirements for Disclosure of Emissions Reduction Goals

Comment: Some respondents stated that the requirements for greenhouse gas emissions reduction goals were not sufficiently stringent or specific. Many respondents were concerned that the information obtained from the inventory would be of little use to agencies and could negatively impact any policies developed.

Response: The intent of this rule is not to require greenhouse gas emissions reduction goals, but to gather information regarding whether or not such information is disclosed. To that end, further guidance has been added in the final rule to clarify that to disclose emissions reduction goals means to make such goals available on a publicly accessible website.

Although the concerns regarding the usefulness of the inventory information are noted, the information gathered will be considered with a variety of other factors.

6. The Rule Is Unclear Whether the Information Obtained From the Representations Would Be Used in Individual Procurements

Comment: Several respondents indicated that the purpose and benefit of the rule is obscure. A number of these respondents expressed concern that the representations set forth in the rule

would place a company that did not disclose its emissions inventory information at a significant competitive disadvantage in comparison with companies that did disclose during source selection.

Response: The rule does not establish evaluation criteria to be used in a source selection decision.

7. The Rule Requires Reporting of Information Already Reported to Other Agencies, Such as the EPA

Comment: A few respondents stated that certain large facilities and companies already provided greenhouse gas emission information to the EPA and therefore the new reporting in SAM would be redundant.

Response: The representations required by the rule indicate if and where offerors publicly disclose greenhouse gas emissions and greenhouse gas reduction goals rather than specific emission information reported to EPA.

8. The Rule Needs To Specify the Scope of Emissions Being Represented

Comment: Several respondents commented that the rule should specify the scope of greenhouse gas emissions in order to make the disclosure meaningful.

Response: Understanding the source of emissions, (*i.e.*, whether it is a scope 1, 2, or 3 emission) is an important consideration within the broader context of achieving greenhouse gas emission reductions. However, the purpose of the rule is to obtain information regarding whether offerors are publicly disclosing their greenhouse gas emissions. Specifying that the disclosure must include the scope of the greenhouse gas emission would limit the ability of the Government to gather information on all types of reporting practices.

9. The Rule Should Not Exclude Commercial Item or COTS Item Vendors From the Disclosure Requirements

Comment: One respondent remarked that if sellers of commercial items and COTS items are exempted from the rule’s disclosure requirements, the rule’s benefits would be sub-optimal.

Response: The rule does not provide an exemption for commercial items and COTS items. All offerors that meet or exceed the rule’s threshold are required to provide the representation.

10. Out of Scope

Comment: Several respondents submitted comments encouraging the Councils to take a more proactive approach to the rule. These respondents

suggested various ways to strengthen the rule, such as—

- Requiring Government agencies to take vendor emission disclosures and emission reduction goals into consideration during source selection;
- Requiring vendors to disclose emissions information and emissions reduction goals, as opposed to indicating “whether or not” they disclose;
- Adding an option to have vendors identify “serious” or “substantial” reduction goals, noting that a 40 percent reduction from the 2008 greenhouse gas baseline was mentioned in E.O. 13693;
- Another respondent observed that the greenhouse gas problem should not be attributed to the companies that sell greenhouse gas-emitting products (such as fuels), but rather, the users that consume these products. This respondent suggested that the Government pursue a revenue neutral course of action.

Response: The Councils note and appreciate the suggestions offered by these respondents; however, they are beyond the scope of the rule. The rule is intended to be a low-burden, minimally intrusive effort to report data in SAM that the Council on Environmental Quality will use to develop an annual inventory, thus allowing for greater insight into the greenhouse gas management practices of the Federal supplier base.

11. Rationale for the Removal of Paragraphs (a) Through (g) at FAR 23.000

Comment: One respondent did not understand the reasoning behind the removal of FAR paragraphs 23.000(a) through (g), as these paragraphs provided the means by which acquisitions based on “improving the quality of the environment . . .” and their removal would lead to subjective agency decisions.

Response: FAR 23.000 is an overview of the acquisitions policies and procedures found in part 23. The rule amends the FAR to remove information that is discussed in greater detail in other areas of part 23; however, the scope for the FAR part remains.

12. Consideration of Climate Change Risk

Note: The preamble of the **Federal Register** for the proposed rule solicited public feedback regarding means and methods to enable agencies to evaluate climate change risks and vulnerabilities. One of the approaches put forth in the preamble was the inclusion of a new representation that would allow offerors to indicate whether or not they assess

the risks imposed by extreme weather conditions and other climate change effects, including the physical impacts of such risks. It was also suggested that offerors should represent if they do or do not discuss climate change risk in their filings with the Securities and Exchange Commission. The comments received in response to climate change risk assessment are summarized as follows:

Comment: Several respondents recommended including disclosure of vendor climate risk analyses in addition to information about greenhouse gas inventories. One respondent expressed the viewpoint that the preferred location for such disclosure was the Securities and Exchange Commission filing. However, one respondent believed that the “does/does not” model will not provide sufficient insight.

Response: The Councils extend their appreciation for the input provided by the public regarding climate change risk assessment. It will be critical to understand climate change risks moving forward.

C. Other Changes

A number of conforming changes were made to the final rule, due to changes made in the FAR text since the publication of the proposed rule.

III. Applicability to Acquisitions at or Below the Simplified Acquisition Threshold, Commercial Items, and Commercially Available Off-the-Shelf Items

This rule establishes a new provision at FAR 52.223–22, Public Disclosure of Greenhouse Gas Emissions and Reductions Goals—Representation, and establishes its commercial item equivalent at FAR 52.212–3, Offeror Representations and Certifications—Commercial Items. The new provision requires offerors that received \$7.5 million or more in contracts from the Federal Government during the prior Federal fiscal year, to represent whether or not they publicly disclose their greenhouse gas emissions and whether or not they publicly disclose a quantitative greenhouse gas emissions reduction goal. This information will be used by the Federal Government to assess the scope of greenhouse gas management undertaken by companies seeking to do business with the Federal Government. Application of the provision in solicitations and contracts at or below the SAT and to the acquisition of commercial items, including COTS items, is necessary in order to comply with E.O. 13693. If the requirements of the provision(s) are not made applicable to acquisitions below

the SAT, or to acquisitions for commercial items or COTS items, the Government will be unable to obtain valuable information from a large segment of its supplier base, which in turn will undermine the overarching purpose of the rule.

41 U.S.C. 1905 through 1907 make certain provisions of law inapplicable to solicitations and contracts at or below the SAT and to the acquisition of commercial items, including COTS items, unless the FAR Council/ Administrator for Federal Procurement Policy determine that such exemption from the statute(s) would not be in the best interest of the Government. However, 41 U.S.C. 1905 through 1907 are only applicable to statutory provisions, not Executive Orders.

IV. 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 a significant regulatory action and, therefore, was 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.

V. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

As stated in E.O. 13693, Federal agencies shall increase their efficiency and improve their environmental performance, including the reduction of greenhouse gas emissions across Federal operations and the Federal supply chain. In keeping with this policy, the objective of the rule is to obtain information from offerors that will assist agencies in developing strategies to reduce supply chain greenhouse emissions.

Specifically, the rule amends the Federal Acquisition Regulation to create a new provision in which offerors that received \$7.5 million in contract awards during the previous Federal fiscal year (FY) are required to represent whether or not they publicly disclose their greenhouse gas emissions and their greenhouse gas emissions reduction goal. We anticipate this rule will apply to approximately 2,700 small entities, based on an analysis of FY 2015 Federal Data Procurement Data (FPDS).

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis. The reporting requirements for the rule are considered to be minimal, and there is no recordkeeping associated with the disclosure representation. The economic impact of the rule is minimized by the fact that only offerors that received Federal awards in excess of \$7.5 million in the previous Federal fiscal year are required to make this representation.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Number 9000-0194, titled: Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, in the amount of 1,375 burden hours.

List of Subjects in 48 CFR Parts 1, 4, 23, and 52

Government procurement.

Dated: November 10, 2016.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 4, 23, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 23, and 52 continues 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

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text, by adding in numerical sequence, FAR segment “52.223–22” and its corresponding OMB control number “9000–0194”.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1202 by redesignating paragraphs (a)(25) through (32) as paragraphs (a)(26) through (33), respectively; and adding a new paragraph (a)(25) to read as follows:

4.1202 Solicitation provision and contract clause.

(a) * * *
(25) 52.223–22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation.
* * * * *

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

23.000 [Amended]

■ 4. Amend section 23.000 by removing from the end of the introductory text “and encouraging the safe operation of vehicles by—” and adding “and for encouraging the safe operation of vehicles.” in its place; and removing paragraphs (a) through (g).

23.001 [Amended]

■ 5. Amend section 23.001 in the definition “Greenhouse gases” by removing “perflouorocarbons,” and adding “perflouorocarbons, nitrogen triflouride,” in its place.
■ 6. Revise subpart 23.8 heading to read as follows:

Subpart 23.8—Ozone-Depleting Substances and Greenhouse Gases

■ 7. Revise section 23.800 to read as follows:

23.800 Scope of subpart.

This subpart—
(a) Sets forth policies and procedures for the acquisition of items that—
(1) Contain, use, or are manufactured with ozone-depleting substances; or
(2) Contain or use high global warming potential hydrofluorocarbons; and
(b) Addresses public disclosure of greenhouse gas emissions and reduction goals.

■ 8. Amend section 23.802 by—
■ a. Removing from paragraph (a) “hydrofluorocarbons; and” and adding “hydrofluorocarbons;” in its place;
■ b. Removing from paragraph (b)(2) “hydrofluorocarbons.” and adding “hydrofluorocarbons;” in its place; and
■ c. Adding paragraphs (c) and (d).
The additions read as follows:

23.802 Policy.
* * * * *
(c) Lead efforts to reduce greenhouse gas emissions at the Federal level in accordance with Executive Order 13693 and the President’s Climate Action Plan of June 2013; and
(d) In order to better understand both direct and indirect greenhouse gas

emissions that result from Federal activities, require offerors that are registered in the System for Award Management (SAM) database and received \$7.5 million or more in Federal contract awards in the prior Federal fiscal year to—

- (1) Represent whether they publicly disclose greenhouse gas emissions;
- (2) Represent whether they publicly disclose a quantitative greenhouse gas emissions reduction goal; and
- (3) Provide the website for any such disclosures.

- 9. Amend section 23.804 by—
■ a. Revising the section heading;
- b. Redesignating paragraphs (a)(1) through (8) as paragraphs (a)(1)(i) through (viii), and paragraph (a) introductory text as paragraph (a)(1) introductory text;
- c. Redesignating the section introductory text as paragraph (a) introductory text, and removing from the newly redesignated paragraph (a) introductory text “areas, insert” and adding “areas, the contracting officer shall insert” in its place;
- d. Redesignating paragraph (b) introductory text as paragraph (a)(2) introductory text, and paragraphs (b)(1) and (2) as paragraphs (a)(2)(i) and (ii);
- e. Redesignating paragraph (c) introductory text as paragraph (a)(3) introductory text, and paragraphs (c)(1) and (2) as paragraphs (a)(3)(i) and (ii);
- f. Redesignating paragraph (d) introductory text as paragraph (a)(4) introductory text, and paragraphs (d)(1) and (2) as paragraphs (a)(4)(i) and (ii); and
- g. Adding a new paragraph (b).
The revision and addition reads as follows:

23.804 Contract provision and clauses.

* * * * *

(b) The provision at 52.223–22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation, is required only when 52.204–7, System for Award Management, is included in the solicitation (see 52.204–8, Annual Representations and Certifications).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 10. Amend section 52.204–8 by—
■ a. Revising the date of the provision;
■ b. Redesignating paragraphs (c)(1)(xviii) through (xxiii) as paragraphs (c)(1)(xix) through (xxiv), respectively; and
■ c. Adding new paragraph (c)(1)(xviii).
The revision and addition reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (Dec 2016)

* * * * *

(c)(1) * * *
(xviii) 52.223–22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation. This provision applies to solicitations that include the clause at 52.204–7.)

* * * * *

- 11. Amend section 52.212–3 by—
- a. Revising the date of the provision;
- b. Removing from the introductory text “Web site located at *https://www.sam.gov/portal*” and adding “Web site located at *https://www.sam.gov/portal*.” in its place;
- c. Removing from the introductory text of the clause and paragraph (b)(2) “(c) through (s)” and adding “(c) through (t)” in its place; and
- d. Adding paragraph (t).

The revision and addition reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Dec 2016)

* * * * *

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals*. Applies in all solicitations that require offerors to register in SAM (52.212–1(k)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) *Representation*. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)]. (i) The Offeror (itself or through its immediate owner or highest-level owner) [] does, [] does not publicly disclose greenhouse gas emissions, *i.e.*, makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) [] does, [] does not publicly disclose a quantitative greenhouse gas emissions reduction goal, *i.e.*, make available on a publicly accessible Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible Web site includes the Offeror’s own Web site or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked “does” in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s)

where greenhouse gas emissions and/or reduction goals are reported: _____.

* * * * *

- 12. Amend section 52.213–4 by—
- a. Revising the date of the clause; and
- b. Removing from paragraph (b)(1)(xi) “FAR 23.804(a)” and adding “FAR 23.804(a)(1)” in its place.

The revision reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items). (Dec 2016)

* * * * *

52.223–11 [Amended]

- 13. Amend section 52.223–11 by removing from the introductory text “in 23.804(a)” and adding “in 23.804(a)(1)” in its place.

52.223–12 [Amended]

- 14. Amend section 52.223–12 by removing from the introductory text “in 23.804(b)” and adding “in 23.804(a)(2)” in its place.

52.223–20 [Amended]

- 15. Amend section 52.223–20 by removing from the introductory text “in 23.804(c)” and adding “in 23.804(a)(3)” in its place.

52.223–21 [Amended]

- 16. Amend section 52.223–21 by removing from the introductory paragraph “in 23.804(d)” and adding “in 23.804(a)(4)” in its place.
- 17. Add section 52.223–22 to read as follows:

52.223–22 Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation.

As prescribed in 23.804(b), insert the following provision:

Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation (Dec 2016)

(a) This representation shall be completed if the Offeror received \$7.5 million or more in Federal contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(b) *Representation*. [Offeror is to check applicable blocks in paragraphs (b)(1) and (2).]

(1) The Offeror (itself or through its immediate owner or highest-level owner) [] does, [] does not publicly disclose greenhouse gas emissions, *i.e.*, make available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting

standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(2) The Offeror (itself or through its immediate owner or highest-level owner) [] does, [] does not publicly disclose a quantitative greenhouse gas emissions reduction goal, *i.e.*, make available on a publicly available Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(3) A publicly accessible Web site includes the Offeror’s own Web site or a recognized, third-party greenhouse gas emissions reporting program.

(c) If the Offeror checked “does” in paragraphs (b)(1) or (b)(2) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported: _____.

(End of provision)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 14, 19, 22, 25, 28, 43, 47, 49, 52, and 53

[FAC 2005–92; FAR Case 2015–035; Item II; Docket No. 2015–0035, Sequence No. 1]

RIN 9000–AN23

Federal Acquisition Regulation: Removal of Regulations Relating to Telegraphic Communication

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 delete the use of “telegram,” “telegraph,” and related terms. The objective is to delete references to obsolete technologies no longer in use and replace with references to electronic communications. In addition, conforming changes are made regarding expedited notices of termination and change orders.

DATES: *Effective:* December 19, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at 202–550–0935 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–92, FAR Case 2015–035.