

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 7, 12, and 52

[FAC 2005–88; FAR Case 2011–020; Item III; Docket No. 2011–0020, Sequence No. 1]

RIN 9000–AM19

Federal Acquisition Regulation; Basic Safeguarding of Contractor Information Systems

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 add a new subpart and contract clause for the basic safeguarding of contractor information systems that process, store or transmit Federal contract information. The clause does not relieve the contractor of any other specific safeguarding requirement specified by Federal agencies and departments as it relates to covered contractor information systems generally or other Federal requirements for safeguarding Controlled Unclassified Information (CUI) as established by Executive Order (E.O.). Systems that contain classified information, or CUI such as personally identifiable information, require more than the basic level of protection.

DATES: Effective: June 15, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, 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– 88, FAR Case 2011–020.

PART 4—ADMINISTRATIVE MATTERS

- 2. Add subpart 4.19 to read as follows:

Subpart 4.19—Basic Safeguarding of Covered Contractor Information Systems

- Sec.
4.1901 Definitions.
4.1902 Applicability.
4.1903 Contract clause.

Subpart 4.19—Basic Safeguarding of Covered Contractor Information Systems

4.1901 Definitions.

As used in this subpart—
Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.
Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as that on public Web sites) or simple transactional information, such as that necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect information systems.

4.1902 Applicability.

This subpart applies to all acquisitions, including acquisitions of commercial items other than commercially available off-the-shelf items, when a contractor’s information system may contain Federal contract information.

4.1903 Contract clause.

The contracting officer shall insert the clause at 52.204–21, Basic Safeguarding of Covered Contractor Information Systems, in solicitations and contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.

PART 7—ACQUISITION PLANNING

- 3. Amend section 7.105 by revising paragraph (b)(18) to read as follows:

7.105 Contents of written acquisition plans.

\* \* \* \* \*

(b) \* \* \*

(18) Security considerations. (i) For acquisitions dealing with classified matters, discuss how adequate security will be established, maintained, and monitored (see subpart 4.4).

(ii) For information technology acquisitions, discuss how agency information security requirements will be met.

(iii) For acquisitions requiring routine contractor physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system, discuss how agency requirements for personal identity verification of contractors will be met (see subpart 4.13).

(iv) For acquisitions that may require Federal contract information to reside in or transit through contractor information systems, discuss compliance with subpart 4.19.

\* \* \* \* \*

PART 12—ACQUISITION OF COMMERCIAL ITEMS

- 4. Amend section 12.301 by redesignating paragraphs (d)(3) through (7) as paragraphs (d)(4) through (8) and adding a new paragraph (d)(3) to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

\* \* \* \* \*

(d) \* \* \*

(3) Insert the clause at 52.204–21, Basic Safeguarding of Covered Contractor Information Systems, in solicitations and contracts (except for acquisitions of COTS items), as prescribed in 4.1903.

\* \* \* \* \*

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 5. Add section 52.204–21 to read as follows:

52.204–21 Basic Safeguarding of Covered Contractor Information Systems.

As prescribed in 4.1903, insert the following clause:

Basic Safeguarding of Covered

**Contractor Information Systems (June, 2016)**

(a) *Definitions.* As used in this clause—  
*Covered contractor information system* means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

*Federal contract information* means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.

*Information* means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

*Information system* means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

*Safeguarding* means measures or controls that are prescribed to protect information systems.

(b) *Safeguarding requirements and procedures.* (1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems.

Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by

organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(End of clause)

- 6. Amend section 52.213–4 by—
  - a. Revising the date of the clause and paragraph (a)(2)(viii);
  - b. Redesignating paragraphs (b)(2)(i) through (iv) as paragraphs (b)(2)(ii) through (v); and
  - c. Adding a new paragraph (b)(2)(i).
- The revisions and addition read as follows:

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

\* \* \* \* \*

**Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items)**

(June, 2016)

(a) \* \* \*

(2) \* \* \*

(viii) 52.244–6, Subcontracts for Commercial Items (June, 2016).

\* \* \* \* \*

(b) \*

\* \* (2) \*

\* \*

(i) 52.204–21, Basic Safeguarding of Covered Contractor Information Systems (June, 2016) (Applies to contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.

\* \* \* \* \*

■ 7. Amend section 52.244–6 by—  
■ a. Revising the date of the clause and in paragraph (a) the definition “Commercial item”;

■ b. Redesignating paragraphs (c)(1)(iii) through (xiv) as paragraphs (c)(1)(iv) through (xv); and

■ c. Adding a new paragraph (c)(1)(iii).  
The revisions and addition read as follows:

**52.244–6 Subcontracts for Commercial Items.**

\* \* \* \* \*

**Subcontracts for Commercial Items**

(June, 2016)

(a) \* \* \*

*Commercial item* and *commercially available off-the-shelf item* have the meanings contained in Federal Acquisition Regulation 2.101, Definitions.

\* \* \* \* \*

(c)(1) \* \* \*

(iii) 52.204–21, Basic Safeguarding of Covered Contractor Information Systems (June, 2016), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204–21.

\* \* \* \* \*

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