

**DEPARTMENT OF HOMELAND SECURITY****48 CFR Chapter 30**

[Docket Number USCG–2003–16571]

RIN 1601-AA16

**Department of Homeland Security Acquisition Regulation**

**AGENCY:** Office of the Chief Procurement Officer, Department of Homeland Security.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Department of Homeland Security (DHS) is issuing an interim rule to establish the Department of Homeland Security Acquisition Regulation (HSAR). The HSAR is intended as regulatory guidance. The HSAR reflects recent changes to the Federal Acquisition Regulation (FAR) and it establishes and encourages participation in the DHS Mentor-Protege Program.

**DATES:** This rule is effective on December 4, 2003. Comments must reach the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy on or before January 5, 2004, to be considered in the formation of the final rule. Comments on collection of information sent to the Office of Management and Budget (OMB) must reach OMB on or before January 5, 2004.

**ADDRESSES:** Please submit written comments by one of the following means:

(1) Electronically to [acquisition@dhs.gov](mailto:acquisition@dhs.gov).

(2) By mail to the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Oversight, ATTN: Kathy Strouss, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, DHS.

**FOR FURTHER INFORMATION CONTACT:** Kathy Strouss, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy, at (202) 205-0141.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. Your comments will be considered for the final rule we plan to issue to replace

this interim rule. If you choose to comment on this rule, please include your name and address, indicate the specific heading of this document to which each comment applies, and give the reason for each comment. Comments should be organized by HSAR Part, and address the specific section (e.g. (HSAR) 48 CFR 3006.302–7) that is being commented on. You may submit your comments and material by mail or electronic means to the address under **ADDRESSES**. Please submit your comments and material by only one means. If you submit them by mail, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Department of Homeland Security, Office of Chief Procurement Officer, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

**Background and Purpose**

DHS is issuing the Homeland Security Acquisition Regulation (HSAR) to establish a uniform departmentwide acquisition policy and regulation. The HSAR uses plain language for clarity and understanding; does not contain internal operating procedures that do not have a significant effect beyond DHS; and establishes the DHS Mentor-Protege Program.

The Department formed a HSAR Work Group that included both acquisition and legal staff from both the Department and its organizational elements. The team's approach was to develop and issue a regulation that delegates authority, where appropriate, to the lowest levels, is concise, and is simple for contractor's, offerors, and DHS contracting personnel to use.

**Discussion of Interim Rule**

The parts that contain no coverage and have been reserved are parts 3007, 3008, 3010, 3012, 3014, 3018, 3020, 3021, 3025, 3026, 3029, 3034, 3038, 3039, 3040, 3041, 3043, 3044, 3048, 3049, 3050, and 3051.

Part 3001, Federal Acquisition System, sets forth basic policies and general information about the Department of Homeland Security Regulation system including purpose, guiding principles, applicability, issuance, arrangement, numbering, dissemination, publication and codification, deviations, career development, contracting authority, and policy regarding determinations,

waivers, exceptions, approvals and reviews.

Part 3002, Definitions and Abbreviations of Words and Terms, provides definitions and abbreviations for commonly used terms.

Part 3003, Improper Business Practices and Personal Conflicts of Interest, lists the authorities for Standards of Conduct and defines the Federal Acquisition Regulation (FAR) term "authorized official of an agency." The Part also contains procedures for reporting suspected violations of the Gratuities clause, and reports of suspected antitrust violations, Contingent Fees and subcontractor kickbacks.

Part 3004, Administrative Matters, prescribes an Approval of Contract clause, and a Security Requirements for Unclassified Information Technology Resources clause. The Part also establishes when quick close out procedures can be used, as well as the applicable forms to be used in contract close out.

Part 3005, Publicizing Contract Actions, includes a requirement that releases of information to the general public will follow Freedom of Information Act (FOIA) rules, and a United States Coast Guard (USCG) exemption for publicizing contract actions for personal medical services contracting.

Part 3006, Competition Requirements, includes policies and procedures for establishing or maintaining alternative sources; circumstances permitting other than full and open competition, public interest; and Competition Advocates requirements, duties and responsibilities. The Part also includes a USCG exemption from competition requirements for personal medical services contracting.

Part 3009, Contractor Qualifications, sets forth policy on responsible prospective contractors; debarment, suspension and ineligibility; and a solicitation provision for organizational and consultant conflicts of interest.

Part 3011, Describing Agency Needs, includes a policy on selecting and developing requirements documents; solicitation and contract clauses for using and maintaining requirements documents; liquidated damages; and priorities and allocations.

Part 3013, Simplified Acquisition Procedures, includes a solicitation provision, and contract and purchase order clauses for the USCG bar coding requirement. It also includes the implementation of DHS special streamlined acquisition authorities.

Part 3015, Contracting By Negotiation, prescribes a Key Personnel or Facilities