''Highest-level owner'' and ''Immediate owner'';

■ d. Removing from the second paragraph of (b)(2) ''(c) through (o)'' and adding ''(c) through (p)'' in its place; and

■ e. Adding paragraph (p).

The revised and added text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Nov 2014)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically via the System for Award Management (SAM) Web site accessed through *http://www.acquisition.gov.* If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (p) of this provision.

(a) * * *

Highest-level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

Immediate owner means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

* * * * *

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a DUNS Number in the solicitation.

(1) The Offeror represents that it [__] has or [__] does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates ''has'' in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code:

_____

Immediate owner legal name:

_____

(*Do not use a ''doing business as'' name*)

Is the immediate owner owned or controlled by another entity: [__] Yes or [__] No.

(3) If the Offeror indicates ''yes'' in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code:

_____

Highest-level owner legal name:

_____

(*Do not use a ''doing business as'' name*)

(End of provision)

* * * * *

[FR Doc. 2014–12387 Filed 5–29–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 42, and 52

[FAC 2005–74; FAR Case 2014–016; Item II; Docket No. 2014–0016, Sequence No. 1]

RIN 9000–AM77

Federal Acquisition Regulation; Repeal of the Recovery Act Reporting Requirements

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, two interim rules amending the Federal Acquisition Regulation (FAR) to revise the clause on Recovery Act reporting procedures. This final rule implements a section of the Consolidated Appropriations Act, 2014, by repealing the reporting requirements of the American Recovery and Reinvestment Act of 2009.

DATES: *Effective:* May 30, 2014.

Applicability: In accordance with FAR 1.108(d)(3), Contracting Officers may, at their discretion, modify existing contracts to amend 52.204–11 in paragraph (c) to add a statement that ''Starting February 1, 2014, future reporting is not required.''

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–74, FAR Case 2014–016.

SUPPLEMENTARY INFORMATION:

I. Background

Section 627 of Division E of the Consolidated Appropriations Act, 2014 (Pub. L. 113–76), repealed the contractor reporting requirements that were in section 1512(c) of Division A of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5). Starting February 1, 2014, future reporting is not required. A message has been posted at *www.federalreporting.gov* notifying Federal contractors of this change. As of March 20, 2014, the Web site is closed for future reporting.

Section 627 also amended section 1512(d) to replace the requirement that agencies make publicly available the information previously reported by contractors under section 1512(c) with the requirement that each agency that made recovery funds available to any recipient, make publicly available detailed spending data as prescribed by the Office of Management and Budget and pursuant to the Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109–282).

Although Federal contractors and agencies are not required after January 31, 2014, to comply with future reporting requirements of the Recovery Act, which were implemented in FAR subpart 4.15, 42.15, and the clause at 52.204–11, American Recovery and Reinvestment Act—Reporting Requirements, contractors and agencies are still required to continue their FFATA reporting on existing contracts, as implemented in FAR subpart 4.14 and clause 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards.

To notify the acquisition community of this change the following steps were taken: (1) The Civilian Agency Acquisition Council (CAAC) issued CAAC letter 2014–02 titled ''Class Deviation from the Federal Acquisition Regulation (FAR) to Repeal the American Recovery and Reinvestment Act of 2009 (the Recovery Act) Reporting Requirement'' on February 20, 2014; and (2) DoD issued a deviation titled ''Class Deviation-Repeal of the Recovery Act Reporting Requirements'' dated March 11, 2014.

II. Discussion and Analysis

DoD, GSA, and NASA published an interim rule under FAR Case 2009–009, American Recovery and Reinvestment Act of 2009 (Recovery Act)—Reporting Requirements, in the **Federal Register** at 74 FR 14639 on March 31, 2009, and notices published at 74 FR 42877 on August 25, 2009, and at 74 FR 48971 on September 25, 2009. DoD, GSA, and NASA published in the **Federal Register** a separate interim rule under FAR Case 2010–008, Recovery Act Subcontract Reporting Procedures, at 75 FR 38684 on July 2, 2010, and a correction published at 75 FR 43090 on July 23,

2010. Responses to the interim rule published under 2009–009 were received from 39 respondents, and one respondent commented on the interim rule published under FAR Case 2010–008.

The CAAC and the Defense Acquisition Regulations Council (DARC) reviewed the public comments received.

However, due to the repeal of the Recovery Act reporting requirements, the two FAR cases under which the interim rules were published have been closed into this FAR Case 2014–016, which adopts the interim rules as a final rule, with changes. This final rule deletes the obsolete text at FAR subpart 4.15 and 52.204–11 and makes conforming changes at 42.1501(a)(5) and 52.212–5(b)(5).

Therefore, the comments received with regard to the two previously published interim rules that addressed applicability, definitions, Web sites, the reporting requirements, paperwork burden, and impact on small business, are no longer relevant.

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

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:

The objective of this final rule is to delete the reporting requirements at FAR subpart 4.15 and the clause at 52.204–11, American Recovery and Reinvestment Act Reporting Requirements. The two prior interim rules (2009–009 and 2010–008), which established the current FAR coverage, have been closed into this final rule. This is necessary because section 627 of Division E of the Consolidated Appropriations Act, 2014, amended Title XV of Division A of the American Recovery and Reinvestment Act, FY 2014 (Pub. L. 111–5), including repeal of the contractor reporting requirements.

Although comments were received on the two prior interim rules, these comments are no longer relevant, because the reporting requirements have been deleted, and there is no further burden on any entity, small or large, that is associated with Recovery Act reporting.

An initial report, with quarterly updates, was required from all Federal contractors that received awards funded by the Recovery Act. As of March 15, 2010, the Federal Procurement Data System (FPDS) indicated that there were 36,680 Recovery Act awards, including modifications, totaling $43,716,219,816. Of the Recovery Act prime contract awards, 39.5%, or 14,501 were made to small businesses. The number of first-tier subcontractors estimated to participate in Recovery Act awards was 73,360. Of these 73,360 Recovery Act first-tier subcontractors, it was estimated that 40%, or 29,344, were small businesses.

Performance of most contracts awarded using Recovery Act funds is already complete. Therefore, we estimate that not more than several hundred small entities will be positively impacted by the elimination of the reporting requirements.

The reports being deleted were probably prepared by a company contract administrator or contract manager or a company subcontract administrator. The information required in the report was primarily information that companies would maintain for their own business purposes including, but not limited to, contract or other award number, the dollar amount of invoices, the supplies or services delivered, a broad assessment of progress towards completion, the estimated number of new jobs created or retained resulting from the award, and first-tier subcontract information (or aggregate information if the subcontract is less than $25,000, or the subcontractor is an individual or had gross income in the previous tax year of less than $300,000). While most of the data elements imposed only one-time burden collection, some required quarterly updates.

Deletion of the Recovery Act reporting requirements from the FAR has eliminated all economic impact of the two prior interim FAR rules on small entities.

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

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). This final rule repealed the contractor reporting requirements that were in section 1512(c) of Division A of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111–5). Therefore, a request will be submitted to OMB to cancel OMB clearances 9000–0166, 9000–0167, 9000–0168, 9000–0169, and 9000–0176. As a result of this action, the public burden for reporting recovery actions has been reduced by 419,019 hours. However, even though Federal contractors and agencies are not required after January 31, 2014, to comply with future reporting requirements of the Recovery Act, which were implemented in FAR subparts 4.15 and 42.15, and the clause at 52.204–11, American Recovery and Reinvestment Act—Reporting Requirements, both groups are still required to continue their FFATA reporting on existing contracts, as implemented in FAR subpart 4.14 and clause 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards and that reporting requirement is covered under a separate collection.

List of Subjects in 48 CFR Parts 4, 42, and 52

Government procurement.

Dated: May 22, 2014.

William Clark,

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

Interim Rules Adopted as Final With Changes

Accordingly, the interim rules amending 48 CFR parts 4 and 52, which were published in the **Federal Register** at 74 FR 14639, March 31, 2009, and at 75 FR 38684, July 2, 2010, are adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 4, 42, 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 4—ADMINISTRATIVE MATTERS

Subpart 4.15 [Removed and Reserved]

■ 2. Remove and reserve Subpart 4.15.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.1501 [Amended]

■ 3. Amend section 42.1501 by removing from paragraph (a)(5) ''subparts 4.14 and 4.15'' and adding ''subpart 4.14'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.204–11 [Removed and Reserved]

■ 4. Remove and reserve section 52.204–11.

■ 5. Amended section 52.212–5 by—

■ a. Revising the date of the clause; and

■ b. Removing and reserving paragraph (b)(5).

The revised text reads as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (May 2014)

* * * * *

[FR Doc. 2014–12393 Filed 5–29–14; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 31 and 52

[FAC 2005–74; FAR Case 2012–017; Item III; Docket No. 2012–0017, Sequence No. 1]

RIN 9000–AM38

Federal Acquisition Regulation; Expansion of Applicability of the Senior Executive Compensation Benchmark

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 adopting as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act of 2012. This section expands the application of the senior executive compensation benchmark to a broader group of contractor employees on contracts awarded by DoD, NASA, and the Coast Guard. The senior executive compensation benchmark amount limits the reimbursement of contractor employee compensation costs.

DATES: *Effective:* May 30, 2014.

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 2005–74, FAR Case 2012–017.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 78 FR 38535, on June 26, 2013 to implement section 803 of the National Defense Authorization Act for Fiscal Year 2012. The interim rule required in FAR 31.205–6(p) that the incurred compensation costs for all contractor employees on all DoD, NASA, and Coast Guard contracts awarded on or after December 31, 2011, be subject to the senior executive compensation amount. The reference to 31.205–6(p) in FAR 52.216–7 was also updated to reflect this revision in 31.205–6(p).

Section 803(c)(2) stated that the expanded reach of the compensation cap ''shall apply with respect to costs of compensation incurred after January 1, 2012, under contracts entered into before, on, or after the date of the enactment of this Act'' (which was December 31, 2011). This final rule addresses only the prospective application of section 803, *i.e.,* to contracts awarded on or after its enactment (December 31, 2011). A separate proposed rule (FAR Case 2012–025) was published in the **Federal Register** at 78 FR 38539, on June 26, 2013 to address the retroactive application of section 803 to contracts that had been awarded before its enactment.

A technical correction was published in the **Federal Register** at 78 FR 70481, on November 25, 2013, correcting the dates in 31.205–6(p)(2)(ii).

Three respondents submitted comments on the interim 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 is provided as follows:

A. Summary of Significant Changes

Based on a review of the public comments, discussed below, the Councils have concluded that no change to the interim rule is necessary.

B. Analysis of Public Comments

1. Retroactive Application of Rule Not Appropriate

Comment: Respondents submitted comments stating that it was inappropriate to retroactively apply the rule. These comments included:

(a) The interim rule creates a breach of contract per case law cited in the General Dynamics and ATK Launch Systems decisions. Thus, the effective date of the interim rule should be June 26, 2013 (the effective date of the interim rule) and not the date of the statute (January 1, 2012).

(b) The interim rule's premise that section 803 of the NDAA must automatically prevail for contracts signed prior to the effective date of the rule but after enactment of the NDAA is incorrect. It is well established in the Federal Courts that a contract that conflicts with Federal statute should still be honored.

(c) Case law has established that statutory language which explicitly requires the issuance of implementing regulations is not self-executing but instead takes effect upon the promulgation of implementing regulations.

(d) The Government was mistaken in its conclusion that the holdings in the General Dynamics and ATK Launch Systems decisions cited in the preamble would impact only contracts awarded before the effective date of the statute. A close reading of those decisions reveals the Government would also be in breach of FAR 52.216–7 in implementing this interim rule because it attempts to impose its requirements on contracts awarded before the published date of the interim rule (June 26, 2013).

(e) The retroactive application of this rule is expressly prohibited per FAR 1.108(d).

Response: Section 803(c)(2) states that the expanded reach of the compensation cap ''shall apply with respect to costs of compensation incurred after January 1, 2012, under contracts entered into before, on, or after the date of the enactment of this Act'' (which was December 31, 2011). This final rule addresses only the prospective application of section 803, *i.e.,* to contracts awarded on or after its enactment (December 31, 2011). A separate proposed rule (FAR Case 2012–025) was published in the **Federal Register** at 78 FR 38539 on June 26, 2013 to address the retroactive application of section 803 to contracts that had been awarded before its enactment.