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FEDERAL TRADE COMMISSION

16 CFR Part 314

RIN 3084-AB35

Standards for Safeguarding Customer Information

AGENCY: Federal Trade Commission.

ACTION: Request for public comment; reopening for public comments.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is extending the deadline for filing public comments on its recent Request for Public Comment on the Standards for Safeguarding Customer Information (“Safeguards Rule” or “Rule”).

DATES: The comment period for the request for public comment published in the **Federal Register** on September 7, 2016 (81 FR 61632), is reopened. Comments must be received on or before November 21, 2016.

ADDRESSES: Interested parties may file a comment online or on paper by following the Instructions for Submitting Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write “Safeguards Rule, 16 CFR 314, Project No. P145407,” on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/safeguardsrulenprm> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: David Lincicum or Katherine McCarron, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, (202) 326-2773 or (202) 326-2333.

SUPPLEMENTARY INFORMATION:

I. Comment Period Extension

On September 7, 2016 (81 FR 61632), as part of the Commission’s systematic review of all current FTC rules and guides, the Commission published a Request for Comments requesting public comment on the overall costs, benefits, necessity, and regulatory impact of the Safeguards Rule, with a deadline for filing comments of November 7, 2016. On September 12, 2016 (81 FR 63435), the Commission published a Request for Public Comment on its Disposal Rule, with a deadline for comments of November 21, 2016. On October 21, 2016, the American Financial Services Association, Consumer Data Industry Association, and the National Auto Dealer Association, requested that the comment period be extended until November 21, 2016 to coincide with the comment period for Disposal Rule Request for Comments. The requesters explained that the two rules are closely related and that comments on the two rules may overlap. Therefore, having the two comment periods coincide would make it easier for commenters to provide feedback on both rules.

The Commission agrees that allowing additional time for filing comments on the Safeguards Rule would help facilitate the creation of a more complete record. In addition, extending the comment period would not harm consumers because the current Rule will remain in effect during the review process. Therefore, the Commission has decided to extend the comment period to November 21, 2016.

II. Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before November 21, 2016. Write “Safeguards Rule, 16 CFR 314, Project No. P145407” on the comment. Your comment, including your name and your state, will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <https://www.ftc.gov/policy/public-comments>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as a Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or payment card

number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information.

In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comments to be withheld from the public record. Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/safeguardsrulenprm> by following the instructions on the web-based form. If this document appears at <http://www.regulations.gov/#!home>, you also may file a comment through that Web site.

If you file your comment on paper, write “Safeguards Rule, 16 CFR 314, Project No. P145407” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex B), Washington, DC 20024.

Visit the Commission Web site at <http://www.ftc.gov> to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public

comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 21, 2016. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,
Secretary.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 6, and 19

[FAR Case 2013-018; Docket No. 2013-0018, Sequence No. 1]

RIN 9000-AM90

Federal Acquisition Regulation: Clarification of Requirement for Justifications for 8(a) Sole Source Contracts

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

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify the guidance for sole-source 8(a) contract awards exceeding \$22 million. **DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before January 17, 2017 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2013-018 by any one of the following methods:

- *Regulations.gov*: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "FAR Case 2013-018" under the heading "Enter Keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "FAR Case 2013-018." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2013-018" on your attached document.

- *Mail*: General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2013-018, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, via email at mahruba.uddowla@gsa, or telephone at 703-605-2868, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR Case 2013-018.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to further clarify guidance for justifications of 8(a) sole-source contract awards in excess of \$22 million. This proposed rule responds to the recommendations made by the Government Accountability Office (GAO) in its report, GAO-13-118, "Slow Start to Implementation of Justifications for 8(a) Sole-Source Contracts." The GAO report focuses on the revisions made to the FAR to implement section 811 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84) (see 77 FR 23369). Section 811 established the requirement that the head of an agency may not award a sole-source 8(a) contract for an amount exceeding \$20 million (subsequently updated to \$22 million) unless—

- The contracting officer justifies the use of a sole-source contract in writing;
- The justification is approved by the appropriate official designated to approve contract awards for dollar amounts that are comparable to the amount of the sole-source contract; and
- The justification and related documentation are made available to the public in accordance with 10 U.S.C. 2304(f)(1)(C) and (l), and 41 U.S.C. 253(f)(1)(C) and (j) (recodified at 41 U.S.C. 3304(e)(1)(C) and (f)), as applicable.

The FAR Council published an interim rule in the **Federal Register** at

76 FR 14559 on March 16, 2011 implementing section 811 requirements. The interim rule was subsequently adopted without change as a final rule and published in the **Federal Register** at 77 FR 23369 on April 18, 2012. Prior to publication of the rule, three tribal consultations were conducted in the Fall of 2010 to address the implementation of section 811.

On December 12, 2012, the GAO released its report regarding the use of the of the sole-source 8(a) justification across the Federal Government. The GAO-13-118 report indicates that the FAR needed additional clarification of justification and recommended that clarifying guidance is needed to help ensure that agencies are applying the justification requirement consistently. The GAO report recommended that OFPP, in consultation with the FAR Council, promulgate guidance to clarify the circumstances in which an 8(a) justification is required. As recommended, OFPP and the FAR Council agree to clarify the FAR with guidance that will:

- Clarify whether an 8(a) justification is required for 8(a) contracts that are subject to a pre-existing Competition in Contracting Act of 1984 (Pub. L. 98-369) (CICA) class justification.
- Provide additional information on actions contracting officers should take to comply with the justification requirement when the contract value rises above or falls below \$22 million between the Small Business Administration's (SBA's) acceptance of the contract for negotiation under the 8(a) program and the contract award.
- Clarify whether and under what circumstances a separate sole-source justification is necessary for out-of-scope modifications to 8(a) sole-source contracts.
- This rule does not expand on the requirements of section 811. The intent of the proposed rule is to further clarify the processes and procedures in the FAR to ensure uniform, consistent, and coherent guidance regarding the use of sole-source 8(a) justifications.

II. Discussion and Analysis

The following is a summary of the proposed FAR amendments associated with this rule:

A. Clarify Whether an 8(a) Justification Is Required for 8(a) Contracts That Are Subject to a Pre-Existing CICA Class Justification

The proposed rule will clarify that a justification executed under any other authority cannot be substituted for a sole-source 8(a) justification.