

on Form F-7, F-8, or F-80, in which case no such reconciliation is required.

Dated: February 9, 2011.

By the Commission.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2011-3259 Filed 2-15-11; 8:45 am]

**BILLING CODE 8011-01-P**

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### 22 CFR Part 228

RIN 0412-AA70

#### Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID

**AGENCY:** United States Agency for International Development (USAID).

**ACTION:** Advanced notice of proposed rulemaking.

**SUMMARY:** The purpose of this notice is to solicit comments on whether changes are needed to USAID's rules on Source, Origin, and Nationality (S/O/N). This solicitation is in furtherance of a USAID initiative to review and if necessary, revise these rules in order to reduce the burden of procurement processes for USAID and contractors and grantees implementing USAID-funded development assistance activities and programs. In particular, USAID wishes to simplify Agency S/O/N procedures as implemented in our regulations and align them more closely with statutory procurement authorities.

**DATES:** Please submit comments no later than April 4, 2011.

**ADDRESSES:** You may submit comments, identified by RIN number 0412-AA70, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [jniemeyer@usaid.gov](mailto:jniemeyer@usaid.gov).

Include RIN number 0412-AA70 in the subject line of the message.

- *Mail:* U.S. Agency for International Development, Office of the General Counsel, 1300 Pennsylvania Ave., NW., Washington DC 20523, Attention: John Niemeyer, Esq.

*Instructions:* All submissions received must include the Agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be included in the public docket without change and will be made available online at <http://www.regulations.gov> including any personal information provided. For

further instructions on submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Public Participation:* Because security screening precautions have slowed the delivery and dependability of surface mail and hand delivery to USAID/Washington, USAID recommends sending all comments to the Federal eRulemaking Portal. The e-mail address listed above is provided in the event that submission to the Federal eRulemaking Portal is not convenient (all comments must be in writing to be reviewed). You may submit comments by electronic mail, avoiding the use of any special characters and any form of encryption.

USAID will consider all comments as it determines how to revise its S/O/N regulation and will publish any proposed changes to this regulation for public comment under a separate publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** John Niemeyer, Esq. Telephone: 202-712-5053, E-mail: [jniemeyer@usaid.gov](mailto:jniemeyer@usaid.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **1. Background**

Currently, USAID implements the statutory procurement directives in Section 604(a) of the Foreign Assistance Act of 1961 (FAA), as amended, through the creation and application of "principal geographic codes" found at 22 CFR 228.03 and the related concepts of "source," "origin" and "nationality" as defined or described in 22 CFR 228. Geographic codes set forth at USAID's Automated Directives System (ADS) Chapter 260 identify geographic entities—countries, territories, organizations, regions, and sub-regions—and program activities associated with geographic entities. They are established and used by USAID for administrative purposes, including determining the source, origin, and nationality of commodities and services financed by USAID. Section 604(a) of the FAA allows for procurement of program-funded goods and services only in the United States, the recipient country, or developing countries (excluding advanced developing countries); however, no single geographic code reflects this statutory directive. USAID employees as well as USAID-funded contractors and grantees, spend a substantial amount of time and resources interpreting, applying, and when necessary and appropriate, seeking waivers from the application of the current codes and related rules. This extensive process results in significant use of resources, and at times, uncertainty across USAID

in application of 22 CFR Part 228. In light of these issues, USAID is inquiring whether or not geographic codes developed before the current era of globalized manufacturing processes and which usually limit procurements to one country are still relevant and effective in today's globalized economy. In addition, USAID is concerned with the cost of compliance with the current geographic code requirements. Anecdotal evidence suggests that the current system of authorizing a specific geographic code for particular procurements creates delays in implementation of sometimes urgently needed assistance. In situations where procurement from the one designated geographic code may not be possible, a waiver may be required to implement the project effectively, adding to the cost and detracting from the effectiveness of implementation. For example, one USAID contractor estimates the average time to process a waiver request for its programs at 55 days. Because the cost of the resources expended in these efforts means fewer resources available for project implementation and foreign assistance, USAID is considering revising the S/O/N regulation to simplify it, to be more consistent with the underlying statutory requirements of Section 604(a) of the FAA, and to streamline the related implementation procedures.

Any issues in this rulemaking that relate to cargo preference will be covered by the comprehensive rulemaking that is being developed to govern the Maritime Administration's cargo preference program.

##### **2. Questions**

USAID invites comments and suggestions on the existing source, origin, and nationality rules in 22 CFR Part 228. In particular:

- What, if any, sections of 22 CFR Part 228 lead to inefficiencies and ineffectiveness in implementing USAID development assistance activities and programs? What are the efficiency impacts to contractors and grantees from provisions reflecting the concept of "origin" and "source" (essentially, the country where a commodity is produced and the country from which a commodity is shipped to the cooperating country, respectively, see 22 CFR 228.01), given the difficulty of determining with specificity the origin and source of many commodities in an increasingly globalized economy?

- Should the regulatory guidance concerning "nationality" (the place of incorporation, ownership, citizenship, residence, etc. of suppliers of USAID-funded goods and services) be modified,

and if so, in what manner to improve efficacy of the rule, particularly as applied to suppliers of services and goods in the recipient country?

■ Should USAID modify the “special source rules,” FAA 604(b), (c), (e), (f), and (g), and reflected in 22 CFR 228.13, for procurement of agricultural commodities, vehicles or pharmaceuticals within limitations set forth in the FAA; and, if so, in what manner?

■ Should references in 22 CFR part 228 to other statutory requirements, such as the Fly America Act (49 U.S.C 40118) be removed or changed? Specifically is it useful for USAID to include Agency-specific policy and procedures in 22 CFR Part 228, when separate statutes and prevailing regulatory systems are already in place and publicly available from other sources?

■ What difficulties do contractors and grantees encounter when requesting a waiver to procure in any country other than those in the approved geographic code for each USAID-funded agreement (contract or grant?) How can the USAID’s waiver guidance be modified or improved for more clear and cost effective application of the statutory and regulatory waiver requirements?

If commenters suggest modification, USAID requests specific proposals for what elements of 22 CFR Part 228 should be modified. USAID requests commenters to provide information and supporting data related to:

- The potential costs of modifying the existing regulatory language noted above.
- The potential quantifiable efficiency benefits of modifying the regulatory language noted above.

Revisions to this regulation will have an impact on related provisions in the 48 CFR 7 Agency for International Development Acquisition Regulation (AIDAR) and various chapters in USAID’s Automated Directives System (ADS), including but not limited to ADS chapters 303, 310, and 311 (the ADS is accessible at <http://www.usaid.gov/policy/ads/>).

Dated: February 1, 2011.

**John Niemeyer,**

*Assistant General Counsel, USAID.*

[FR Doc. 2011-3401 Filed 2-11-11; 4:15 pm]

**BILLING CODE P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management, Regulation and Enforcement

#### 30 CFR Part 285

[Docket ID: BOEM-2010-0045]

RIN 1010-AD71

#### Renewable Energy Alternate Uses of Existing Facilities on the Outer Continental Shelf—Acquire a Lease Noncompetitively

**AGENCY:** Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** BOEMRE proposes to revise the regulations that pertain to noncompetitive acquisition of an Outer Continental Shelf (OCS) renewable energy lease. We are taking this action because the current regulations governing the noncompetitive acquisition of an OCS renewable energy lease initiated by BOEMRE and a request for a noncompetitive OCS renewable energy lease initiated by an unsolicited request are inconsistent. This rulemaking will make the two processes consistent with each other by eliminating a duplicative and unnecessary step in the noncompetitive leasing process, while continuing to provide for adequate public notice and review of leasing proposals as required by law.

**DATES:** *Comment Due Date:* Submit comments on the proposed rule by March 18, 2011.

**ADDRESSES:** You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010-AD71 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the entry titled “Enter Keyword or ID,” enter BOEM-2010-0045, then click search. Follow the instructions to submit public comments and view supporting and related materials available for this rulemaking. BOEMRE will post all comments.

• Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Regulations and Standards Branch (RSB); 381 Elden Street, MS-4024, Herndon, Virginia 20170-4817. Please reference “Acquire a Lease Noncompetitively, 1010-AD71” in your comments and include your name and address.

**FOR FURTHER INFORMATION CONTACT:** Timothy Redding at (703) 787-1219.

#### SUPPLEMENTARY INFORMATION:

##### Background

BOEMRE originally published the proposed revision for comment as a direct final rule in the **Federal Register** on November 26, 2010. That document stated that if BOEMRE received a significant adverse comment concerning the rulemaking, it would withdraw the direct final rule and publish a notice of proposed rulemaking. BOEMRE did receive significant adverse comment on the direct final rulemaking and on January 25, 2011, published in the **Federal Register** a notice of withdrawal and statement of intent to reinstate rulemaking by publishing this proposed rule.

The regulations at 30 CFR part 285 govern renewable energy leasing and alternate uses of existing facilities on the OCS. This proposed rule would revise the regulations at §§ 285.231 and 285.232. The regulations at § 285.231 address unsolicited requests for noncompetitive leases. The regulations at § 285.232 address the acquisition of noncompetitive leases in response to a Request for Interest (RFI) or a Call for Information and Nomination (Call). The process for awarding leases noncompetitively outlined in these two sections is currently inconsistent.

As currently written, § 285.231 allows the award of a noncompetitive lease after BOEMRE receives an unsolicited request for a noncompetitive lease, provided that BOEMRE determines that there is no competitive interest after publishing a single notice of a request for interest relating to the unsolicited request for a noncompetitive lease.

As currently written, § 285.232 provides that, after BOEMRE publishes an RFI or Call, if a respondent indicates interest in leasing an area for which no other party has indicated interest, BOEMRE may offer a lease through a noncompetitive process. However, the regulations require the publication of a second RFI notice to confirm the absence of competition before proceeding with the noncompetitive process. We believe that this requirement for a second notice is redundant and is at odds with the noncompetitive process prescribed for cases in which a party submits an unsolicited request for an OCS renewable energy lease, where BOEMRE is required to publish only a single notice. Eliminating this discrepancy and requiring only one RFI notice would make BOEMRE’s leasing processes more streamlined and efficient while maintaining BOEMRE’s obligation to