

52.219-1 Small Business Program Representations.

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SMALL BUSINESS PROGRAM REPRESENTATIONS (DEC 1996)

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(c) *Definitions. Joint venture*, for purposes of a small disadvantaged business (SDB) set-aside or price evaluation preference (as prescribed at 13 CFR 124.321), is a concern that is owned and controlled by one or more socially and economically disadvantaged individuals entering into a joint venture agreement with one or more business concerns and is considered to be affiliated for size purposes with such other concern(s). The combined annual receipts or employees of the concerns entering into the joint venture must meet the applicable size standard corresponding to the SIC code designated for the contract. The majority of the venture's earnings must accrue directly to the socially and economically disadvantaged individuals in the SDB concern(s) in the joint venture. The percentage of the ownership involvement in a joint venture by disadvantaged individuals must be at least 51 percent.

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(End of provision)

52.219-11 [Amended]

12. Section 52.219-11 is amended by removing Alternate I.

52.219-12 [Amended]

13. Section 52.219-12 is amended by removing Alternate I.

14. Section 52.219-17 is amended by revising the clause date and by adding paragraphs (a)(5) and (c) to read as follows:

52.219-17 Section 8(a) Award.

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SECTION 8(a) AWARD (DEC 1996)

(a) * * *

(5) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the cognizant Contracting Officer under the "Disputes" clause of the subcontract.

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(c) The offeror/subcontractor agrees that it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the cognizant Contracting Officer of the _____ [insert name of contracting agency].

(End of clause)

52.219-18 [Amended]

15. Section 52.219-18 is amended by removing Alternate II and by redesignating Alternate III as Alternate II.

[FR Doc. 96-32007 Filed 12-19-96; 8:45 am]

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48 CFR Part 19

[FAC 90-43; FAR Case 96-328; Item VIII]

RIN 9000-AH40

Federal Acquisition Regulation; Extension of Small Business Competitiveness Demonstration Program

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement Section 108 of the Small Business Programs Improvement Act of 1996 (Public Law 104-208, Division D). Section 108 extends the Small Business Competitiveness Demonstration Program (15 U.S.C. 644 note) until September 30, 1997. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss at (202) 501-4764 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 96-328.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule amends the FAR to extend the Small Business Competitiveness Demonstration Program through September 30, 1997. The program consists of two major components: a test of unrestricted competition in four designated industry groups, and a test of enhanced small business participation in 10 agency targeted industry categories. The rule implements section 108, Title I (Amendments to Small Business Administration Act), of Public Law 104-208. Section 108 was effective upon enactment (September 30, 1996).

B. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not

apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must cite 5 U.S.C. 601, *et seq.* (FAC 90-43, FAR case 96-328), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 19 is amended as set forth below:

PART 19—SMALL BUSINESS PROGRAMS

1. The authority citation for 48 CFR Part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

19.1001 [Amended]

2. Section 19.1001 is amended in the second sentence by revising the date "1996" to read "1997".

19.1006 [Amended]

3. Section 19.1006(b)(1) is amended by revising the date "1996" to read "1997".

[FR Doc. 96-32008 Filed 12-19-96; 8:45 am]

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48 CFR Part 31

[FAC 90-43; FAR Case 92-613; Item IX]

RIN 9000-AG85

Federal Acquisition Regulation; Morale, Health, Welfare Costs/ Contractor Overhead Certification

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) cost principle for public relations and

advertising costs to eliminate confusion as to which cost principle governs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 92-613.

SUPPLEMENTARY INFORMATION:

A. Background

The General Accounting Office (GAO), in its report GAO/NSIAD-93-79, "CONTRACT PRICING: Unallowable Costs Charged to Defense Contracts", dated November 20, 1992, recommended that the cost principles at FAR 31.205-1, 31.205-13, and 31.205-14 be revised to eliminate confusion as to which cost principle was controlling. The December 1992 OMB SWAT summary report on civilian agency contracting practices also recommended these cost principles be made more explicit.

Revisions to FAR 31.205-13 and 31.205-14, based on recommendations of the GAO and OMB SWAT, and implementation of the Federal Acquisition Streamlining Act of 1994, Public Law 103-355, were published as a final rule in the Federal Register (60 FR 42662) on August 16, 1995.

This final rule amends the third cost principle cited in the GAO and the OMB SWAT reports. The rule amends the cost principle at FAR 31.205-1, Public relations and advertising costs, by removing from paragraph (f)(5) the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs. A proposed rule was published in the Federal Register on March 29, 1996 (61 FR 14216). Two sources submitted public comments. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are

awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: September 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205-1(f)(5) is revised to read as follows:

31.205-1 Public relations and advertising costs.

* * * * *

(f) * * *

(5) Costs of promotional material, motion pictures, videotapes, brochures, handouts, magazines, and other media that are designed to call favorable attention to the contractor and its activities.

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[FR Doc. 96-32009 Filed 12-19-96; 8:45 am]

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48 CFR Part 31

[FAC 90-43; FAR Case 95-003; Item X]

RIN 9000-AG73

Federal Acquisition Regulation; Impairment of Long-Lived Assets

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

ACTION: Interim rule adopted as a final rule with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to amend the Federal Acquisition Regulation (FAR) to clarify the cost allowability rules

concerning the recognition of losses when carrying values of impaired assets are written down for financial reporting purposes. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 95-003.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule clarifies that impairment losses recognized for financial accounting purposes under the Financial Accounting Standards Board Statement of Financial Accounting Standards (SFAS), No. 121, Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed of, dated March 1995, are not allowable for Government contract costing.

The SFAS applies to long-lived assets (such as land, buildings, and equipment), certain identifiable intangibles, and related goodwill. If impaired assets are to be held for use, the SFAS requires a write-down to fair value when events or circumstances (e.g., environmental damage, idle facilities arising from declining business, etc.) indicate that carrying values may not be fully recoverable. Once written down, the previous carrying amount of an impaired asset could not be restored if the impairment were subsequently removed.

In contrast to the SFAS provisions, Cost Accounting Standard (CAS) 9904.409, Depreciation of Tangible Capital Assets, provides quite different criteria and guidance to recognize gains and losses for Government contract purposes. The language at CAS 9904.409-40 (a)(4) and (b)(4), CAS 9904.409-50(j), and related Promulgation Comment 10, Gain or Loss, makes it clear that gains and losses are recognized only upon asset disposal; no other circumstances trigger such recognition. The language at CAS 9904.409-50(i) makes it clear that changes in depreciation may result from other permissible causes, e.g., changes in estimated service life, consumption of services, and residual value.

This final rule amends FAR 31.205-11, Depreciation, and 31.205-16, Gains and Losses on Disposition or