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48 CFR Parts 1, 4, 12, 19, 31, 46 and 52

[FAC 90-43; Item XIV]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Technical amendments.

SUMMARY: This document is being issued in order to update the list of Office of Management and Budget approvals under the Paperwork Reduction Act which resulted from recent changes to the Federal Acquisition Regulation (FAR), and to correct typographical errors, FAR citations and clause dates.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, Technical Amendments.

List of Subjects in 48 CFR parts 1, 4, 12, 19, 31, 46 and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

48 CFR Parts 1, 4, 12, 19, 22, 31, 46, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 4, 12, 19, 22, 31, 46, and 52 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).

PART 1—FEDERAL ACQUISITION REGULATION

1.106 [Corrected]

2. Section 1.106 is amended under the "FAR segment" and "OMB control No." headings following the introductory text by removing "22.15" and "9000-0127", and "All other requirements" and "9000-0063", respectively, and revising the entry "42.203" to read "43.205(f)".

PART 4—ADMINISTRATIVE MATTERS

4.803 [Corrected]

3. Section 4.803(a)(11) is amended by revising the word "representatives" to read "representations".

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.301, 12.302, and 12.303 [Corrected]

4. Section 12.301 is amended in paragraphs (b)(1) and (b)(3), section 12.302 is amended in the second sentence of paragraph (d), and section 12.303 is amended in paragraphs (c)(1) and (e)(1) by revising "Block 26" to read "Block 27a".

PART 19—SMALL BUSINESS PROGRAMS

19.502-1 [Corrected]

5. Section 19.502-1 is amended in the introductory text by removing "Using the order of precedence in 19.504, the" and inserting "The" in its place.

19.508 [Corrected]

6. Section 19.508 is amended in the first sentence of paragraphs (c) and (d) by removing "(see 19.504(a)(2))" and "(see 19.504(a)(4))", respectively.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205-6 [Corrected]

7. Section 31.205-6 is amended in the second sentence of paragraph (g)(1) by revising the citation "paragraph (j)(6) below" to read "paragraph (j)(7)".

PART 46—QUALITY ASSURANCE

46.805 [Corrected]

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.208-9 [Corrected]

8.-9. Section 52.208-9 is amended in the fourth sentence of paragraph (c) of the clause by revising the word "contract" to read "contact".

52.211-4 [Corrected]

10. Section 52.211-4 is amended in the introductory text by revising "11.203(d)" to read "11.204(d)".

52.211-5 [Corrected]

11. Section 52.211-5 is amended in the introductory text by revising "11.203(e)" to read "11.302(a)".

52.211-6 [Corrected]

12. Section 52.211-6 is amended in the introductory text by revising "11.203(f)" to read "11.302(b)".

52.211-7 [Corrected]

13. Section 52.211-7 is amended in the introductory text by revising "11.203(g)" to read "11.302(c)".

52.211-13 [Corrected]

14. Section 52.211-13 is amended by revising the introductory text to read

"As prescribed in 11.504(c), insert the following clause:".

52.228-14 [Corrected]

15. Section 52.228-14 is amended in item 5 of paragraphs (e) and (f) by revising "1983 Revision" to read "1993 Revision" and "Publication No. 400" to read "Publication No. 500".

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48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Notice.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 90-43 which amends the FAR. Further information regarding these rules may be obtained by referring to FAC 90-43 which precedes this notice. This document may be obtained from the Internet at <http://www.gsa.gov/far/SECG>.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, FAR Secretariat, (202) 501-4755.

Item I—FASA and the Walsh-Healey Public Contracts Act (FAR Case 96-601)

This interim rule amends the Federal Acquisition Regulation (FAR) to eliminate the requirement that covered contractors under the Walsh-Healey Public Contracts Act must be either the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Section 7201 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) amended the Walsh-Healey Public Contracts Act to repeal the "manufacturer" or "regular dealer" requirement.

Item II—Individual and Class Deviations (FAR Case 96-004)

This final rule amends the FAR to eliminate the requirements for all agencies to submit copies of approved individual deviations to the FAR Secretariat and for DOD and NASA to submit copies of approved class deviations to the FAR Secretariat.

Item III—Use of Data Universal Numbering System as Primary Contractor Identification (FAR Case 95-307)

This interim rule amends the FAR by adding a new solicitation provision at 52.204-6, and revising Standard Forms 294 and 295 to replace the Contractor Establishment Code with the Data Universal Numbering System number as the means of identifying contractors in the Federal Procurement Data System.

Item IV—Inapplicability of Cost Accounting Standards to Contracts and Subcontracts for Commercial Items (FAR Case 96-310)

This final rule amends FAR Part 12 to implement Section 4205 of the Clinger-Cohen Act of 1996 (Public Law 104-106) (formerly the Federal Acquisition Reform Act (FARA)). Section 4205 amends 41 U.S.C. 422(f) to provide that the statutory requirement for mandatory use of Cost Accounting Standards (CAS) need not apply to contracts or subcontracts for the acquisition of commercial items. While CAS generally will not apply to acquisitions of commercial items, CAS requirements may be invoked as a matter of policy by the CAS Board, pursuant to the authority provided in 41 U.S.C. 422.

Item V—Allowable Cost and Payment Clause (FAR Case 93-024)

This final rule amends the FAR to clarify that reimbursement of subcontract costs under cost-type contracts generally will not be made to a large business contractor until the

contractor has made payment to the subcontractor.

Item VI—Mentor Protégé Program (FAR Case 93-308)

The interim rule published as Item X of FAC 90-37 is finalized with minor clarifying changes. The rule permits a mentor firm under the DOD Pilot Mentor-Protégé Program to be granted credit toward subcontracting goals for certain costs incurred in providing developmental assistance to its protégé firms, and to award subcontracts on a noncompetitive basis to its protégé firms.

Item VII—Minority Small Business and Capital Ownership (FAR Case 95-028)

This interim rule amends the FAR to reflect revisions to the Small Business Administration's regulations at 13 CFR Parts 121 and 124, which address the Minority Small Business and Capital Ownership Development Program. The rule clarifies eligibility and procedural requirements for procurements under the 8(a) Program.

Item VIII—Extension of Small Business Competitiveness Demonstration Program (FAR Case 96-328)

This final rule amends the FAR to implement Section 108, Title I (Amendments to Small Business Administration Act). Section 108 extends the Small Business Competitiveness Demonstration Program (15 U.S.C. 644 note) until September 30, 1997.

Item IX—Morale, Health, Welfare Costs/Contractor Overhead Certification (FAR Case 92-613)

This final 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.

Item X—Impairment of Long-Lived Assets (FAR Case 95-003)

This final rule amends the 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.

Item XI—Local Government Lobbying Costs (FAR Case 96-003)

This interim rule amends the FAR to make allowable the costs of lobbying activities to influence local legislation in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract.

Item XII—Clause Flowdown (FAR Case 92-035)

This final rule amends the FAR by eliminating requirements for prime contractors to flow down clause provisions to their subcontractors or suppliers from FAR clauses 52.215-26, 52.216-5, 52.216-6, 52.216-16, 52.216-17, 52.222-1, 52.236-21, 52.244-2(i), 52.246-23, 52.246-24, and 52.246-25.

Item XIII—Collection of FASA-Related Information Within the Federal Procurement Data System (FAR Case 95-310)

This final rule amends the FAR to change the Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and Standard Form 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report (\$25,000 or Less), to incorporate new information categories required by the Federal Acquisition Streamlining Act of 1994.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.
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