

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 46**

[FAR Case 97-027]

RIN 9000-AH94

**Federal Acquisition Regulation;
Mandatory Government Source
Inspection**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to facilitate the elimination of unnecessary Government contract quality assurance requirements at source. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Comments should be submitted on or before May 19, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 1800 F Street, NW, Room 4035, Washington, DC 20405. E-mail comments submitted over Internet should be addressed to: farcase.97-027@gsa.gov. Please cite FAR case 97-027 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Klein, Procurement Analyst, at (202) 501-3775. Please cite FAR case 97-027.

SUPPLEMENTARY INFORMATION:**A. Background**

The Acting Under Secretary of Defense (Acquisition and Technology), by memorandum dated March 20, 1997,

tasked the Commander, Defense Contract Management Command, to establish a process action team (PAT) that would, in part, review and recommend steps to eliminate unnecessary Government source inspections for commercial and non-commercial item micro-purchases. The Under Secretary of Defense (Comptroller/Chief Financial Officer), by memorandum dated May 29, 1997, requested that the scope of the review be expanded to reassess all source acceptance policies and procedures, including a full accounting of all Government steps and costs in the source acceptance process; a comparison with alternate methods; and a determination of whether or not the existing 1.8 million stock items requiring source acceptance still merit that designation.

The PAT's initial review found that contributors of unnecessary Government contract quality assurance at source are FAR 46.402(e), which requires mandatory contract quality assurance at source when higher-level quality requirements are invoked, and 46.402(g), which appears to discourage destination acceptance for overseas shipments. The proposed rule amends FAR 46.402 to delete these paragraphs.

B. Regulatory Flexibility Act

The proposed changes may 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 both large and small entities will see a reduction in the administrative burden caused by the Government's in-plant presence to perform quality assurance at source when higher-level quality requirements have been included in Government contracts or when supplies requiring inspection are destined for points of embarkation for overseas shipment. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. The IRFA is summarized as follows:

There is no statistical data to support an estimate of the dollar value related to the reduction in the administrative burden associated with this rule. However, DOD administers the contracts of approximately 10,129 large and 18,329 small entities. Approximately 30 percent have contracts that contain the clause at FAR 52.246-11, Higher-Level Contract Quality Requirement (Government Specification). It is anticipated

that the proposed rule's reduction in the administrative burden may serve to motivate more small entities to do business with the Government. This rule imposes no additional reporting, recordkeeping, or compliance requirements on offerors or contractors. This rule does not duplicate, overlap, or conflict with any other Federal rules. Consideration was given to not making the revision to the FAR. It was determined that not making these revisions would be unacceptable because of the adverse impact on an efficient and effective acquisition process. Consideration also was given to making all of the requirements at FAR 46.402 discretionary, but it was decided that this would be premature since the PAT has not completed its review and made its final recommendations.

A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR Case 97-027), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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 46

Government procurement.

Dated: March 17, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Part 46 amended as set forth below:

PART 46—QUALITY ASSURANCE

1. The authority citation for 48 CFR Part 46 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).

46.402 [Amended]

2. Section 46.402 is amended by removing paragraphs (e) and (g); redesignating paragraphs (f) and (h) as (e) and (f), respectively; and by adding "or" to the end of the newly designated paragraph (e).

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