

Dated: June 8, 1999.
Eleanor R. Spector,
Director, Defense Procurement.

Dated: June 7, 1999.
Ida M. Ustad,
Deputy Associate Administrator, Office of Acquisition Policy General Services Administration.

Dated: May 27, 1999.
Tom Luedtke,
Acting Associate Administrator for Procurement National Aeronautics and Space Administration.
[FR Doc. 99-15145 Filed 6-16-99; 8:45 am]
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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 13, 14, 15, and 52

[FAC 97-12; FAR Case 97-003; Item I]

RIN 9000-A114

Federal Acquisition Regulation; Taxpayer Identification Numbers

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

ACTION: Interim rule adopted as final without change.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt the interim rule published in the **Federal Register** at 63 FR 58587, October 30, 1998, as a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to implement Subsection (i) of the Debt Collection Improvement Act of 1996 and Section 1022 of the Taxpayer Relief Act of 1997, and to clarify the Government requirements for reporting contract and payment information to the Internal Revenue Service (IRS).

EFFECTIVE DATE: June 17, 1999.

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 Mr. Jeremy F. Olson, Procurement Analyst, at (202) 501-3221. Please cite FAC 97-12, FAR case 97-003.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an interim FAR rule in the **Federal Register** on October 30, 1998 (63 FR 58587), and received no public comments.

Therefore, we converted the interim rule to a final rule without change.

The interim rule implemented Subsection (i) of the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) and Section 1022 of the Taxpayer Relief Act of 1997 (Pub. L. 105-32). Subsection (i) amended 31 U.S.C. 7701 by requiring each contractor doing business with the Government to furnish its Taxpayer Identification Number (TIN) and by requiring the Government to disclose its intent to use such number for purposes of collecting and reporting on any delinquent amounts. Section 1022 amended 26 U.S.C. 6041A(d) to add payments for services provided by corporations to the list of payments that the Government is required to report to the IRS using Form 1099.

In addition, the interim rule clarified the requirement for Government agencies to obtain contract information and payment information to facilitate issuance of Forms 1099 and other reports to the IRS. The rule deleted the FAR clauses at 52.214-2, Type of Business Organization—Sealed Bidding, and 52.215-4, Type of Business Organization, since the information requested in these clauses duplicates the information requested in FAR 8.405-2(q), Taxpayer Identification Number, and FAR clauses 52.204-3, Taxpayer Identification, and 52.212-3, Offeror Representations and Certifications Commercial Items.

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.

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 the rule merely clarifies an existing requirement for contractors to submit TINs, and requires the Government to advise contractors of the potential debt collection usage of the TIN.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the

FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1, 4, 13, 14, 15, and 52

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR parts 1, 4, 13, 14, 15, and 52, which was published at 63 FR 58587, October 30, 1998, as a final rule without change.

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

[FR Doc. 99-15146 Filed 6-16-99; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11, 37, and 52

[FAC 97-12; FAR Case 96-018; Item II]

RIN 9000-AH85

Federal Acquisition Regulation; Use of Brand Name Item Descriptions

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 (the Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify guidance for the use of brand name purchase descriptions.

EFFECTIVE DATE: August 16, 1999.

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. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-12, FAR case 96-018.

SUPPLEMENTARY INFORMATION:

A. Background

While indicating that performance specifications are the preferred method for describing the Government's needs, this final rule permits the use of brand name or equal purchase descriptions. The rule clarifies how brand name or equal purchase descriptions are structured, *i.e.*, salient functional, physical, or performance characteristics must be part of the description.

The Councils published a proposed rule in the **Federal Register** at 63 FR 63778, November 16, 1998, and considered all comments in the development of this final rule.

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.

B. Regulatory Flexibility Act

The 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 the rule affects how purchase descriptions may be written for competitive procurements. The Final Regulatory Flexibility Analysis (FRFA) for this rule is summarized as follows:

The objective of the final rule is to provide more comprehensive, uniform FAR guidance on the appropriate use of brand name purchase descriptions. Application of the guidance supports consistent use of such purchase descriptions in Federal acquisitions. The rule will apply to all large and small entities that offer supplies to the Government that are brand name items or are comparable to such items. We anticipate that the selected approach will be the most advantageous to small entities, while achieving the objective of the rule because this approach best enables the Government to express its requirements clearly and describe the degree of flexibility with which offered supplies or services will be evaluated as "equal."

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy of the FRFA from the FAR Secretariat. We invite comments. The Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 97-12, FAR case 96-018), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the

FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 11 and 52

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 11 and 52 as set forth below:

1. The authority citation for 48 CFR parts 11 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 11—DESCRIBING AGENCY NEEDS

2. Redesignate sections 11.104 and 11.105 as sections 11.105 and 11.106, respectively; and add new sections 11.104 and 11.107 to read as follows:

11.104 Use of brand name or equal purchase descriptions.

(a) While the use of performance specifications is preferred to encourage offerors to propose innovative solutions, the use of brand name or equal purchase descriptions may be advantageous under certain circumstances.

(b) Brand name or equal purchase descriptions must include, in addition to the brand name, a general description of those salient physical, functional, or performance characteristics of the brand name item that an "equal" item must meet to be acceptable for award. Use brand name or equal descriptions when the salient characteristics are firm requirements.

11.107 Solicitation provision.

The contracting officer must insert the provision at 52.211-6, Brand Name or Equal, when brand name or equal purchase descriptions are included in a solicitation.

11.105 [Amended]

2a. Amend the introductory paragraph and paragraph (a) of newly redesignated section 11.105 by removing "brand-name" and adding "brand name" in its place.

PART 37—SERVICE CONTRACTING

37.602-1 [Amended]

3. Amend section 37.602-1 in the second sentence of paragraph (a) by removing "(see 11.105)" and adding "(see 11.106)" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Add section 52.211-6 to read as follows:

52.211-6 Brand Name or Equal.

As prescribed in 11.107, insert the following provision:

Brand Name or Equal (Aug 1999)

(a) If an item in this solicitation is identified as "brand name or equal," the purchase description reflects the characteristics and level of quality that will satisfy the Government's needs. The salient physical, functional, or performance characteristics that "equal" products must meet are specified in the solicitation.

(b) To be considered for award, offers of "equal" products, including "equal" products of the brand name manufacturer, must—

(1) Meet the salient physical, functional, or performance characteristic specified in this solicitation;

(2) Clearly identify the item by—

(i) Brand name, if any; and

(ii) Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modifications the offeror plans to make in a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modifications.

(c) The Contracting Officer will evaluate "equal" products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the offeror clearly indicates in its offer that the product being offered is an "equal" product, the offeror shall provide the brand name product referenced in the solicitation.

(End of provision)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 19, and 52

[FAC 97-12; FAR Case 98-011; Item III]

RIN 9000-A133

Federal Acquisition Regulation; SBA's 8(a) Business Development Program

AGENCIES: Department of Defense (DoD), General Services Administration (GSA),