

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 17 and 52**

[FAR Case 98-606]

RIN 9000-AI26

**Federal Acquisition Regulation; Option
Clause Consistency**

AGENCIES: 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 make the format of the Option to Extend Services clause consistent with the format of other FAR option clauses. The change also permits the time period for providing a preliminary notice of the Government's intent to exercise a contract option to be tailored.

DATES: Comments should be submitted on or before March 23, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Laurie Duarte 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.98-606@gsa.gov.

Please cite FAR case 98-606 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 Mr. Ralph DeStefano, Procurement Analyst, at (202) 501-1758. Please cite FAR case 98-606.

SUPPLEMENTARY INFORMATION:**A. Background**

This proposed rule amends the clause at FAR 52.217-8, Option to Extend Services, to permit the contracting officer to insert, in the clause, a time period for exercise of the option consistent with other option clauses at FAR 52.217-6, -7, and -9. This

proposed rule also amends the clause at FAR 52.217-9, Option to Extend the Term of the Contract, to clarify that the time period for providing preliminary notice of option exercise may be tailored. The current prescription for the clause permits the use of a clause "substantially the same as" the clause at FAR 52.217-9. This proposed change emphasizes that 60 days is the standard number of days within which to provide notice, but the contracting officer may specify a different number of days, when appropriate. Finally, an editorial amendment is made at FAR 17.208(g).

B. Regulatory Flexibility Act

This proposed rule is not expected to 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 amends the FAR clause pertaining to option to extend services to permit insertion of an option period within the clause, rather than in the contract schedule. The rule also clarifies existing FAR guidance pertaining to preliminary notice of the Government's intent to exercise a contract option. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR Case 98-606), 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.* 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.

List of Subjects in 48 CFR Parts 17 and 52

Government procurement.

Dated: January 14, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 17 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 17 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 17—SPECIAL CONTRACTING
METHODS**

2. Section 17.208 is amended by revising paragraph (g) to read as follows:

**17.208 Solicitation provisions and
contract clauses.**

* * * * *

(g) The contracting officer shall insert a clause substantially the same as the clause at 52.217-9, Option to Extend the Term of the Contract, in solicitations and contracts when the inclusion of an option is appropriate (see 17.200 and 17.202) and it is necessary to include in the contract any or all of the following:

(1) A requirement that the Government shall give the contractor a preliminary written notice of its intent to extend the contract.

(2) A statement that an extension of the contract includes an extension of the option.

(3) A specified limitation on the total duration of the contract.

**PART 52—SOLICITATION PROVISIONS
AND CONTRACT CLAUSES**

2. Section 52.217-8 is amended by revising the clause date and the clause to read as follows:

52.217-8 Option to Extend Services.

* * * * *

OPTION TO EXTEND SERVICES [DATE]

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within [insert the period of time within which the Contracting Officer may exercise the option]. (End of clause)

3. Section 52.217-9 is amended by revising the clause date and paragraph (a) of the clause to read as follows:

**52.217-9 Option to Extend the Term of the
Contract.**

* * * * *

**OPTION TO EXTEND THE TERM OF THE
CONTRACT [DATE]**

(a) The Government may extend the term of this contract by written notice to the Contractor within [insert the period of time within which the Contracting Officer may

exercise the option], provided that the Government shall give the Contractor a preliminary written notice of its intent to extend at least _____ days [*60 days unless a different number of days is inserted*] before the contract expires. The preliminary notice does not commit the Government to an extension.

* * * * *

(End of clause)

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