

contracts until final indirect cost rates are negotiated. In addition, the use of quick-closeout procedures is voluntary on the part of the contractor to ensure that the contractor does not suffer any loss. The final rule (1) revises FAR 42.708(a) by substituting the word "shall" for "may"; (2) raises the limitation in FAR 42.708(a)(2)(i) for total unsettled indirect costs allocable to any one contract from \$500,000 to \$1 million; and (3) revises FAR 42.708(a)(2)(ii) to permit the contracting officer to waive the 15 percent restriction based upon a risk assessment that considers contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information. Paragraph (f) of the clause at FAR 52.216-7 and paragraph (e) of the clause at 52.216-13 have also been revised to be consistent with the revisions to 42.708 as outlined above.

A proposed rule was published in the Federal Register on July 25, 1995 (60 FR 38196). Five comments from two sources were received in response to the proposed rule. All comments were considered in the development of 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 business are awarded on the basis of a firm-fixed price, and settlement of final indirect cost rates is, therefore, not an issue. No comments were received on the impact of this rule on small entities during the public comment period.

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 Parts 42 and 52

Government procurement.

Dated: June 4, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 42 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 42 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 42—CONTRACT ADMINISTRATION

2. Section 42.708 is amended in the introductory text of paragraph (a) by removing "may" and inserting "shall"; and by revising paragraph (a)(2) (i) and (ii) to read as follows:

42.708 Quick-closeout procedure.

- (a) * * *
(2) * * *

(i) The total unsettled indirect cost to be allocated to any one contract does not exceed \$1,000,000; and

(ii) Unless otherwise provided in agency procedures, the cumulative unsettled indirect costs to be allocated to one or more contracts in a single fiscal year do not exceed 15 percent of the estimated, total unsettled indirect costs allocable to cost-type contracts for that fiscal year. The contracting officer may waive the 15 percent restriction based upon a risk assessment that considers the contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information; and

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.216-7 is amended by revising the date of the clause and paragraph (f) to read as follows:

52.216-7 Allowable Cost and Payment.

* * * * *

ALLOWABLE COST AND PAYMENT (AUG 1996)

* * * * *

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

* * * * *

4. Section 52.216-13 is amended by revising the introductory paragraph, the date in the clause heading, and paragraph (e) to read as follows:

52.216-13 Allowable Cost and Payment—Facilities.

As prescribed in 16.307(g), insert the following clause:

ALLOWABLE COST AND PAYMENT—FACILITIES (AUG 1996)

* * * * *

(e) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

* * * * *

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48 CFR Part 46

[FAC 90-39; FAR Case 92-031; Item XXVII]

RIN 9000-AG06

Federal Acquisition Regulation; Quality Assurance Actions—Electronic Screening

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 include definitions of the terms "latent defect" and "patent defect." 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: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-031.

SUPPLEMENTARY INFORMATION:

A. Background

On June 8, 1992, the Department of Defense Inspector General issued Audit Report 92-099, Quality Assurance Actions Resulting from Electronic Component Screening, which included a recommendation that the Defense FAR Supplement be revised to include definitions of the terms "latent defect" and "patent defect." Since both terms are used in the FAR, Part 46 of the FAR is being revised to include uniform definitions for use by all acquiring agencies. A proposed rule was published in the Federal Register at 59 FR 46386 on September 8, 1994. After evaluation of public comments, the Councils agreed to convert the proposed rule to a final rule without change.

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 revision merely provides uniform definitions for existing FAR terms. No comments were received on the impact of this rule on small entities during the public comment period.

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 46

Government procurement.

Dated: June 4, 1996.

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

Therefore, 48 CFR Part 46 is 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).

2. Section 46.101 is amended by adding in alphabetical order the definitions "Latent defect" and "Patent defect" to read as follows:

46.101 Definitions.

* * * * *

Latent defect means a defect which exists at the time of acceptance but cannot be discovered by a reasonable inspection.

* * * * *

Patent defect means any defect which exists at the time of acceptance and is not a latent defect.

* * * * *

[FR Doc. 96-14542 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 46

[FAC 90-39; FAR Case 92-027; Item XXVIII]

RIN 9000-AF80

Federal Acquisition Regulation; Quality Assurance Nonconformances

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 provide standardized definitions of the terms "critical nonconformance," "major nonconformance," and "minor nonconformance," and make other conforming amendments as a result of recommendations made by the Department of Defense Inspector General. 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: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-027.

SUPPLEMENTARY INFORMATION:**A. Background**

On September 27, 1990, the Department of Defense Inspector General (DoDIG) issued Audit Report 90-113, Nonconforming Products Procured by the Defense Industrial Supply Center. The report included recommendations that the DoD should use standardized terminology for a nonconformance, and that the DoD definition of a nonconformance should be in agreement with the FAR. On March 28, 1994 (59 FR 14466), the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published a proposed rule implementing the DoDIG's recommendation.

As a result of evaluating the comments received, changes were made to the proposed rule. The changes included deleting the words "judgment and experience indicate" from the definition of "critical nonconformance;" and adding the words "of the supplies or services," to the definition of "major

nonconformance" after the word "failure."

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 provides standard terminology and definitions and guidance to contracting officers pertaining to nonconforming supplies and services. No comments were received on the impact of this rule on small entities during the public comment period.

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 46

Government procurement.

Dated: June 4, 1996.

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

Therefore, 48 CFR Part 46 is 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).

2. Section 46.101 is amended by adding in alphabetical order the definitions "Critical nonconformance", "Major nonconformance", and "Minor nonconformance" to read as follows:

46.101 Definitions.

* * * * *

Critical nonconformance means a nonconformance that is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or is likely to prevent performance of a vital agency mission.

* * * * *

Major nonconformance means a nonconformance, other than critical, that is likely to result in failure of the supplies or services, or to materially reduce the usability of the supplies or services for their intended purpose.