

VI. Ordering Clauses

16. Accordingly, *It is ordered* that pursuant to authority contained in §§ 251 and 252 of the Communications Act of 1934, as amended, 47 U.S.C. 251, 252, and pursuant to § 1.108 of the Commission's rules, 47 CFR § 1.108, the Commission reconsiders its decision in the *First Report and Order* on its own motion to the extent specified herein.

17. *It is further ordered* that the policies and rules adopted here shall be effective October 8, 1996.

List of Subjects in 47 CFR Part 51

Communications, common carriers, Telephone.

Federal Communications Commission.
William F. Caton.
Acting Secretary.

Rule Changes

47 CFR, part 51, is amended as follows.

PART 51—INTERCONNECTION

1. The authority citation for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 218, 225–27, 251–54, 271, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 218, 225–27, 251–54, 271, unless otherwise noted.

2. Paragraph (c)(2) of Section 51.513 is revised to read as follows:

§ 51.513 Proxies for forward-looking economic cost.

* * * * *

(c) * * *

(2) *Local switching.*

(i) The blended proxy-based rate for the usage-sensitive component of the unbundled local switching element, including the switching matrix, the functionalities used to provide vertical features, and the trunk ports, shall be no greater than 0.4 cents (\$0.004) per minute, and no less than 0.2 cents (\$0.002) per minute, except that, where a state commission has, before August 8, 1996, established a rate less than or equal to 0.5 cents (\$0.005) per minute, that rate may be retained pending completion of a forward-looking economic cost study. If a flat-rated charge is established for these components, it shall be converted to a per-minute rate by dividing the projected average minutes of use per flat-rated subelement, for purposes of assessing compliance with this proxy. A weighted average of such flat-rate or usage-sensitive charges shall be used in appropriate circumstances, such as when peak and off-peak charges are used.

(ii) The blended proxy-based rate for the line port component of the local switching element shall be no less than \$1.10, and no more than \$2.00, per line port per month for ports used in the delivery of basic residential and business exchange services.

* * * * *

3. Paragraph (b)(2) of Section 51.707 is revised to read as follows:

§ 51.707 Default proxies for incumbent LECs' transport and termination rates.

* * * * *

(b) * * *

(2) *Transport.* The incumbent LEC's rates for the transport of local telecommunications traffic, under this section, shall comply with the proxies described in Section 51.513(c)(3), (4), and (5) of this part that apply to the analogous unbundled network elements used in transporting a call to the end office that serves the called party.

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DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 837 and 852

RIN 2900–AG67

VA Acquisition Regulation: Service Contracting

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document, with a nonsubstantive change, adopts as a final rule the provisions of a proposal to amend the Department of Veterans Affairs (VA) Acquisition Regulation pertaining to “SERVICE CONTRACTING” and “SOLICITATION PROVISIONS AND CONTRACT CLAUSES.” The regulation is amended to implement a class deviation from the Federal Acquisition Regulation by establishing a modified clause for indemnification and medical liability insurance requirements applicable to VA contracts. The use of this clause, instead of the Federal Acquisition Regulation clause, is intended to ensure that contractors providing nonpersonal health-care services to VA are able to comply with State statutes and avoid excessive costs.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: Wanza Lewis, Acquisition Policy Division (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont

Avenue, NW, Washington, DC 20420, (202) 273–8820.

SUPPLEMENTARY INFORMATION: On October 22, 1993, we published in the Federal Register (58 FR 54548) a proposal to amend the Department of Veterans Affairs Acquisition Regulation to implement a class deviation from the Federal Acquisition Regulation Section 37.401 and clause at Section 52.237–7. Comments were solicited concerning the proposal for 60 days, ending December 20, 1993. We did not receive any comments. The information presented in the proposed rule document still provides a basis for this final rule. Therefore, based on the rationale set forth in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule without change, except for a nonsubstantive change which removes the designation of the material in Section 852.237–7 as a deviation.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This final rule would not cause a significant effect on any entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects

48 CFR Part 837

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Approved: September 25, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR parts 837 and 852 are amended as set forth below:

PART 837—SERVICE CONTRACTING

1. The authority citation for part 837 is revised to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

2. Subpart 837.4, section 837.403 is added to read as follows:

Subpart 837.4—Nonpersonal Health-Care Services

837.403 Contract clause.

The contracting officer shall insert the clause at 852.237–7, Indemnification and Medical Liability Insurance, in lieu of FAR Clause 52.237–7, in solicitations

and contracts for nonpersonal health-care services. The contracting officer may include the clause in bilateral purchase orders for nonpersonal health-care services awarded under the procedures in FAR part 13 and (VAAR) 48 CFR part 813.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

4. Section 852.237-7 is added to read as follows:

852.237-7 Indemnification and Medical Liability Insurance.

As prescribed in 837.403, insert the following clause:

Indemnification and Medical Liability Insurance (October 1996)

(a) It is expressly agreed and understood that this is a nonpersonal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered, including by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: [Contracting Officer insert the dollar value(s) of standard coverage(s) prevailing within the local community as to the specific medical specialty, or specialties, concerned, or such higher amount as the Contracting Officer deems necessary to protect the Government's interests]. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health-care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health-care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

(End of Clause)

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1011, 1104, 1111, 1112, 1113, 1114, 1115 and 1121

[STB Ex Parte No. 527]

Expedited Procedures For Processing Rail Rate Reasonableness, Exemption And Revocation Proceedings

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rules.

SUMMARY: Under new 49 U.S.C. 10704(d), enacted as part of section 102(a) of the ICC Termination Act of 1995 (ICCTA), the Surface Transportation Board (Board) is required to establish procedures to expedite the handling of challenges to the reasonableness of railroad rates and of railroad exemption and revocation proceedings. This publication contains our final rules.

EFFECTIVE DATE: November 7, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 927-7312. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: The Board's decision discussing the final rules is available to all persons for a charge by calling DC NEWS & DATA INC. at (202) 289-4357. A notice of proposed rulemaking was published in the Federal Register on July 26, 1996 at 61 FR 39110. The Board certifies that the rules will not have a significant economic effect on a substantial number of small entities. They should result in easier and quicker discovery and record-building.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Parts 1104, 1112, 1113, 1114, and 1115

Administrative practice and procedure.

49 CFR Part 1111

Administrative practice and procedure, Investigations.

49 CFR Part 1121

Administrative practice and procedure, Rail exemption procedures, Railroads.

Decided: September 27, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1011, 1104, 1111, 1112, 1113, 1114, 1115 and 1121 of the Code of Federal Regulations are amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for part 1011 is revised to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 13702.

§ 1011.7 [Amended]

2. Section 1011.7 is amended as follows:

a. In paragraph (b)(1), remove the words "The Chairman of the Commission" and add in their place the words "The Commission (Board)".

b. Paragraph (b)(2) is removed and reserved.