

Item VI—Mentor/Protégé Program (FAR Case 93–308)

The interim rule published as Item X of FAC 90–37 is finalized with minor clarifying changes. The rule permits a mentor firm under the DOD Pilot Mentor/Protégé Program to be granted credit toward subcontracting goals for certain costs incurred in providing developmental assistance to its protégé firms, and to award subcontracts on a noncompetitive basis to its protégé firms.

Item VII—Minority Small Business and Capital Ownership (FAR Case 95–028)

This interim rule amends the FAR to reflect revisions to the Small Business Administration's regulations at 13 CFR Parts 121 and 124, which address the Minority Small Business and Capital Ownership Development Program. The rule clarifies eligibility and procedural requirements for procurements under the 8(a) Program.

Item VIII—Extension of Small Business Competitiveness Demonstration Program (FAR Case 96–328)

This final rule amends FAR Subpart 19.10 to implement Section 108, Title I (Amendments to Small Business Administration Act), of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–208). Section 108 extends the Small Business Competitiveness Demonstration Program (15 U.S.C. 644 note) until September 30, 1997.

Item IX—Morale, Health, Welfare Costs/Contractor Overhead Certification (FAR Case 92–613)

This final rule amends the cost principle at FAR 31.205–1, Public Relations and Advertising Costs, by removing from paragraph (f)(5) the parenthetical reference to other cost principles to eliminate any confusion as to which cost principle governs.

Item X—Impairment of Long-Lived Assets (FAR Case 95–003)

This final rule amends the FAR to clarify the cost allowability rules concerning the recognition of losses when carrying values of impaired assets are written down for financial reporting purposes.

Item XI—Local Government Lobbying Costs (FAR Case 96–003)

This interim rule amends the FAR to make allowable the costs of lobbying activities to influence local legislation in order to directly reduce contract costs or to avoid material impairment of the contractor's authority to perform the contract.

Item XII—Clause Flowdown (FAR Case 92–035)

This final rule amends the FAR by eliminating requirements for prime contractors to flow down clause provisions to their subcontractors or suppliers from FAR clauses 52.215–26, 52.216–5, 52.216–6, 52.216–16, 52.216–17, 52.222–1, 52.236–21, 52.244–2(i), 52.246–23, 52.246–24, and 52.246–25.

Item XIII—Collection of FASA-Related Information Within the Federal Procurement Data System (FAR Case 95–310)

This final rule amends the FAR to change the Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and Standard Form 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report (\$25,000 or Less), to incorporate new information categories required by the Federal Acquisition Streamlining Act of 1994.

Item XIV—Technical Amendments

These technical amendments have been made to correct typographical errors, FAR citations, and clause dates.

Dated: December 11, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.
Federal Acquisition Circular
Number 90–43

Federal Acquisition Circular (FAC) 90–43 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

FAR cases 96–601, 93–308, 95–307, 96–328, 95–310, 95–028 and 96–003 are effective December 20, 1996. FAR case 96–310 is effective January 1, 1997. FAR cases 96–004, 93–024, 92–613, 95–003 and 92–035 are effective February 18, 1997.

Dated: December 10, 1996.
Eleanor R. Spector,
Director, Defense Procurement.

Dated: December 10, 1996.
Ada M. Ustad,
Deputy Associate Administrator, Office of Acquisition Policy.

Dated: December 10, 1996.
Tom Luedtke,
Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.
[FR Doc. 96–32000 Filed 12–19–96; 8:45 am]
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48 CFR Parts 1, 9, 14, 19, 22, 33, and 52

[FAC 90–43, FAR Case 96–601, Item I]
RIN 9000–AH31

Federal Acquisition Regulation; FASA and the Walsh-Healey Public Contracts Act

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

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to eliminate the requirement that covered contractors under the Walsh-Healey Public Contracts Act must be either the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Section 7201 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) amended the Walsh-Healey Public Contracts Act to repeal the “manufacturer” or “regular dealer” requirement. 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.
DATES: *Effective Date:* December 20, 1996.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 18, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90–43, FAR case 96–601, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–43, FAR case 96–601.

SUPPLEMENTARY INFORMATION:**A. Background**

On August 5, 1996 (61 FR 40714), the Department of Labor (DOL) published a final rule implementing the changes

made by the Federal Acquisition Streamlining Act of 1994 (FASA) to the Walsh-Healey Public Contracts Act (PCA). The FAR is being revised at this time, consistent with the DOL final rule.

B. Regulatory Flexibility Act

The interim 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 to conform to revisions to DOL regulations reflecting repeal of the "manufacturer" and "regular dealer" requirements under the PCA. DOL has determined that the revisions to its regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, these conforming FAR amendments are not expected to have a significant economic impact. 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 parts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR case 96-601), in correspondence.

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.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment, because implementation of this change is required by Section 7201 of the Federal Acquisition Streamlining Act of 1994 and Department of Labor regulations. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Parts 1, 9, 14, 19, 22, 33, and 52

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 1, 9, 14, 19, 22, 33, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 9, 14, 19, 22, 33, 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

2. The table in section 1.106 is amended under the "FAR Segment" and "OMB Control Number" columns by removing the entry for "22.606-2(b)".

PART 9—CONTRACTOR QUALIFICATIONS

9.103 [Amended]

3. Section 9.103 paragraph (b) is amended in the third sentence by removing "and Determinations of Eligibility".

9.104-1 [Amended]

4. Section 9.104-1 is amended in paragraphs (a), (e), and (f) by revising the citation "9.104-3(b)" to read "9.104-3(a)"; and in paragraph (c) by revising the citation "9.104-3(c)" to read "9.104-3(b)".

9.104-3 [Amended]

5. Section 9.104-3 is amended by removing paragraph (a), and by redesignating paragraphs (b) through (e) as (a) through (d), respectively.

9.702 [Amended]

6. Section 9.702 is amended by removing paragraph (d), and by redesignating paragraphs (e) and (f) as (d) and (e), respectively.

PART 14—SEALED BIDDING

14.205-1 [Amended]

7. Section 14.205-1(d)(2) is amended by removing "(the manufacturer or regular dealer)".

PART 19—SMALL BUSINESS PROGRAMS

19.001 [Amended]

8. Section 19.001 is amended by removing the definition for "Determination of eligibility".

19.102 [Amended]

9. Section 19.102(f)(1) is amended by removing the fifth sentence, and in the last sentence by removing "regular dealer" and inserting "nonmanufacturer" in its place.

Subpart 19.6—Certificates of Competency

10. The subpart heading for Subpart 19.6 is revised to read as set forth above.

19.601 [Amended]

11. Section 19.601 is amended by removing paragraph (c) and by redesignating paragraph (d) as (c).

19.803 [Amended]

12. Section 19.803(a)(3) is amended by removing the last sentence.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.601 [Reserved]

13. Section 22.601 is removed and reserved.

14. Section 22.602 is revised to read as follows:

22.602 Statutory requirements.

Except for the exemptions at 22.604, all contracts subject to the Walsh-Healey Public Contracts Act (the Act) (41 U.S.C. 35-45) and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation (all the stock of which is beneficially owned by the United States) for the manufacture or furnishing of materials, supplies, articles, and equipment (referred to in this subpart as supplies) in any amount exceeding \$10,000, shall include or incorporate by reference the stipulations required by the Act pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

22.604-2 [Amended]

15. Section 22.604-2 is amended by removing paragraph (b) and by redesignating paragraph (c) as (b).

22.606 [Reserved]

22.606-1 and 22.606-2 [Removed]

16. Section 22.606 and subsections 22.606-1 and 22.606-2 are removed and 22.606 is reserved.

22.607 [Reserved]

17. Section 22.607 is removed and reserved.

18. Section 22.608 is revised to read as follows:

22.608 Procedures.

(a) *Award*. When a contract subject to the Act is awarded, the contracting officer, in accordance with regulations or instructions issued by the Secretary of Labor and individual agency procedures, shall furnish to the contractor DOL publication WH-1313, Notice to Employees Working on Government Contracts.

(b) *Breach of stipulation*. In the event of a violation of a stipulation required under the Act, the contracting officer shall, in accordance with agency procedures, notify the appropriate regional office of the DOL, Wage and Hour Division (see 22.609), and furnish any information available.

22.608-1 through 22.608-6 [Removed]

19. Subsections 22.608-1 through 22.608-6 are removed.

22.609 [Amended]

20.-21. Section 22.610 is revised to read as follows:

22.610 Contract clause.

The contracting officer shall insert the clause at 52.222-20, Walsh-Healey Public Contracts Act, in solicitations and contracts covered by the Act (see 22.603, 22.604, and 22.605).

PART 33—PROTESTS, DISPUTES, AND APPEALS

22. Section 33.102(a) is amended by revising the last sentence to read as follows:

33.102 General.

(a) * * * (See 19.302 for protests of small business status.)

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**52.219-14 [Amended]**

23. Section 52.219-14 is amended by revising the clause date to read "(DEC 1996)" and in paragraph (b)(2) by removing "regular dealer in" and inserting "nonmanufacturer of" in its place.

52.222-19 [Reserved]

24. Section 52.222-19 is removed and reserved.

52.222-20 [Amended]

25. Section 52.222-20 is amended in the introductory text by revising "22.610(b)" to read "22.610", by revising the clause date to read "(DEC 1996)", and in paragraph (a) by twice removing "representations and".

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48 CFR Part 1

[FAC 90-43; FAR Case 96-004; Item II]

RIN 9000-AH32

Federal Acquisition Regulation; Individual and Class Deviations

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 eliminate the requirements for all agencies to submit copies of approved individual deviations to the FAR Secretariat, and for DOD and NASA to submit copies of approved class deviations to the FAR Secretariat. 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: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 96-004.

SUPPLEMENTARY INFORMATION:**A. Background**

DOD and NASA monitor approved deviations to the FAR and recommend revisions to the regulation as appropriate. Accordingly, collection of their deviations by the FAR Secretariat is no longer considered necessary. Furthermore, collection of individual deviations approved by all agencies is no longer considered necessary and is being deleted from the regulation.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR part will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-43, FAR case 96-004), in correspondence.

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 1

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 1 is amended as set forth below:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for 48 CFR Part 1 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 1.403 is amended by revising the last sentence to read as follows:

1.403 Individual deviations.

* * * The justification and agency approval shall be documented in the contract file.

3. Section 1.404 is amended by revising the last sentence of the introductory text to read as follows:

1.404 Class deviations.

* * * For civilian agencies other than NASA, a copy of each approved class deviation shall be furnished to the FAR Secretariat.

* * * * *

4. Section 1.405 is amended by revising paragraphs (d) and (e) to read as follows:

1.405 Deviations pertaining to treaties and executive agreements.

* * * * *

(d) For civilian agencies other than NASA, a copy of the text deviation authorized under paragraph (b) or (c) of this section shall be transmitted to the FAR Secretariat through a central agency control point.

(e) For civilian agencies other than NASA, if a deviation required to comply with a treaty or an executive agreement is not authorized by paragraph (b) or (c) of this section, then the request for deviation shall be processed through the FAR Secretariat to the Civilian Agency Acquisition Council.

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