

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to expand the authority of the Department of Defense and the Coast Guard to enter into contracts that cross fiscal years.

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: December 29, 1998.

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 at (202) 501-0692. Please cite FAC 97-09, FAR case 97-302.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85) amends 10 U.S.C. 2410a to authorize the Secretary of Defense, the Secretary of a military department, or the Secretary of Transportation with regard to the Coast Guard when not operating as a service in the Navy, to enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year.

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. However, comments from small entities concerning the affected FAR subparts will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-09, FAR case 97-302), 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 Parts 32 and 37

Government procurement.

Dated: October 22, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 32 and 37 are amended as set forth below:

1. The authority citation for 48 CFR Parts 32 and 37 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 32—CONTRACT FINANCING

2. Section 32.703-3 is revised to read as follows:

32.703-3 Contracts crossing fiscal years.

(a) A contract that is funded by annual appropriations may not cross fiscal years, except in accordance with statutory authorization (e.g., 41 U.S.C. 11a, 31 U.S.C. 1308, 42 U.S.C. 2459a, 42 U.S.C. 3515, and paragraph (b) of this subsection), or when the contract calls for an end product that cannot feasibly be subdivided for separate performance in each fiscal year (e.g., contracts for expert or consultant services).

(b) The head of an executive agency, except NASA, may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed one year (10 U.S.C. 2410a and 41 U.S.C. 253l). Funds made available for a fiscal year may be obligated for the total amount of an action entered into under this authority.

PART 37—SERVICE CONTRACTING

3. Section 37.106 is amended by revising paragraph (b) to read as follows:

37.106 Funding and term of service contracts.

* * * * *

(b) The head of an executive agency, except NASA, may enter into a contract, exercise an option, or place an order under a contract for severable services for a period that begins in one fiscal year and ends in the next fiscal year if the period of the contract awarded, option exercised, or order placed does not exceed one year (10 U.S.C. 2410a and 41 U.S.C. 253l). Funds made available for a fiscal year may be obligated for the total amount of an action entered into under this authority.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 32

[FAC 97-09; FAR Case 97-609; Item IX]

RIN 9000-A111

Federal Acquisition Regulation; Payment Due Dates

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 amending the Federal Acquisition Regulation (FAR) to clarify that agencies may authorize amendment of the FAR payment clauses to specify a period shorter than 30 days for making contract invoice payments, provided such period is not less than 7 days. 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: December 29, 1998.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, 1800 F Street, NW, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson at (202) 501-0692. Please cite FAC 97-09, FAR case 97-609.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Subpart 32.9 to clarify that agencies may amend the clauses at FAR 52.232-25, Prompt Payment, and 52.232-26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, to specify a period shorter than 30 days (but not less than 7 days) for making contract invoice payments.

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. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5

U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-09, FAR case 97-609), 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 32:

Government procurement.

Dated: October 22, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 32 is amended as set forth below:

1. The authority citation for 48 CFR Part 32 continues to read as follows:

PART 32—CONTRACT FINANCING

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

2. Section 32.905 is amended in paragraph (a) by revising the introductory text to read as follows:

32.905 Invoice payments.

(a) *General.* Except as prescribed in paragraphs (b), (c), and (d) of this section, or as authorized in 32.908(a)(3) or (c)(3), the due date for making an invoice payment by the designated payment office shall be as follows:

* * * * *

3. Section 32.908 is amended by adding paragraphs (a)(3) and (c)(3) to read as follows:

32.908 Contract clauses.

(a) * * *

(3) As provided in 32.904, agency policies and procedures may authorize amendment of paragraphs (a)(1)(i) and (iii) of the clause to insert a period shorter than 30 days (but not less than 7 days) for making contract invoice payments.

* * * * *

(c) * * *

(3) As provided in 32.904, agency policies and procedures may authorize amendment of paragraph (a)(1)(i) of the clause to insert a period shorter than 30 days (but not less than 7 days) for making contract invoice payments.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 6, 14, 15, 19, 32, 33, 36, 41, 52, and 53

[FAC 97-09; Item X]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Technical amendments.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

EFFECTIVE DATE: October 30, 1998.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GSA Building, Washington, DC 20405, (202) 501-4755.

List of Subjects in 48 CFR Parts 1, 6, 14, 15, 19, 32, 33, 36, 41, 52, and 53

Government procurement.

Dated: October 22, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 1, 6, 14, 15, 19, 32, 33, 36, 41, 52, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 6, 14, 15, 19, 32, 33, 36, 41, 52, and 53 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

2. The table in section 1.106 is amended by revising entries "41.004.2(c)" to read "41.202(c)"; "52.241-2" to read "52.241-3"; "52.241-6" to read "52.241-7"; and "52.241-11" to read "52.241-1"; removing the FAR segment and the corresponding OMB Control Number entries for 52.211-5, 52.253-1, and 53.105; and adding entries, in numerical order, to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

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FAR segment	OMB Control No.
52.227-14	9000-0090
52.227-15	9000-0090
52.227-16	9000-0090
52.227-17	9000-0090
52.227-18	9000-0090
52.227-19	9000-0090
52.227-20	9000-0090
52.227-21	9000-0090
52.227-22	9000-0090
52.227-23	9000-0090

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PART 6—COMPETITION REQUIREMENTS

6.302-3 [Amended]

3. Section 6.302-3 is amended at the end of paragraph (a)(2) introductory text by removing the colon and inserting a dash; and at the beginning of paragraphs (a)(2)(i) and (a)(2)(ii), by removing "to" and inserting "To".

PART 14—SEALED BIDDING

14.407-4 [Amended]

5. Section 14.407-4 is amended in paragraph (a) by revising the word "amendment" to read "modification".

PART 15—CONTRACTING BY NEGOTIATION

15.404-1 [Amended]

6. Section 15.404-1 is amended in the first sentence of paragraph (a)(7) by removing the word "Resource" and adding "Reference".

PART 19—SMALL BUSINESS PROGRAMS

7. Section 19.102(f)(4) is amended by revising the third sentence to read as follows:

19.102 Size standards.

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(f)(4) * * * A listing is also available on SBA's Internet Homepage at <http://www.sba.gov/gc>. * * *

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19.1004 [Amended]

8. Section 19.1004 is amended by revising the term "Defense Mapping Agency" to read "National Imagery and Mapping Agency".

PART 32—CONTRACT FINANCING

9. Section 32.705-1 is amended by revising paragraph (b) to read as follows:

32.705-1 Clauses for contracting in advance of funds.

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