

**31.205-52 Asset valuations resulting from business combinations.**

(a) For tangible capital assets, when the purchase method of accounting for a business combination is used, whether or not the contract or subcontract is subject to CAS, the allowable depreciation and cost of money shall be based on the capitalized asset values measured and assigned in accordance with 48 CFR 9904.404-50(d), if allocable, reasonable, and not otherwise unallowable.

(b) For intangible capital assets, when the purchase method of accounting for a business combination is used, allowable amortization and cost of money shall be limited to the total of the amounts that would have been allowed had the combination not taken place.

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**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Part 39**

[FAC 97-04; FAR Case 96-605; Item XV]

RIN 9000-AH55

**Federal Acquisition Regulation;  
Modular Contracting**

**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 implement Section 5202 of the Information Technology Management Reform Act (ITMRA) of 1996, which encourages maximum practicable use of modular contracting in acquiring information technology. ITMRA is part of the Clinger-Cohen Act of 1996 (Public Law 104-106). 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:** April 24, 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 Ms. Linda Nelson, Procurement Analyst at (202) 501-1900. Please cite FAC 97-04, FAR case 96-605.

**SUPPLEMENTARY INFORMATION:****A. Background**

A proposed rule with request for comment and notice of public meeting was published in the **Federal Register** (62 FR 14756) on March 27, 1997. Comments were received from four respondents. All comments were considered in the development of the final rule. The final rule differs from the proposed rule by adding in paragraph 39.103(d) "task order contracts" as another example.

**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, while it may affect the structure of certain information technology (IT) acquisition programs, it will not impose any specific cost burden on small entities. The modular contracting approach should slightly benefit small entities, because use of modular contracting techniques should increase the number of business opportunities available to them. When a modular contracting approach is used, large, complex IT systems acquisitions will be divided into smaller, discrete increments that may subsequently be made available to small entities for competition.

**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 39**

Government procurement.

Dated: February 13, 1998.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, 48 CFR Part 39 is amended as set forth below:

**PART 39—ACQUISITION OF  
INFORMATION TECHNOLOGY**

1. The authority citation for 48 CFR Part 39 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 39.002 is amended by adding in alphabetical order the definition of "Modular contracting" to read as follows:

**39.002 Definitions.**

*Modular contracting*, as used in this part, means use of one or more contracts to acquire information technology systems in successive, interoperable increments.

\* \* \* \* \*

3. Section 39.103 is added to read as follows:

**39.103 Modular contracting.**

(a) This section implements Section 5202, Incremental Acquisition of Information Technology, of the Clinger-Cohen Act of 1996 (Public Law 104-106). Modular contracting is intended to reduce program risk and to incentivize contractor performance while meeting the Governments need for timely access to rapidly changing technology. Consistent with the agency's information technology architecture, agencies should, to the maximum extent practicable, use modular contracting to acquire major systems (see 2.101) of information technology. Agencies may also use modular contracting to acquire non-major systems of information technology.

(b) When using modular contracting, an acquisition of a system of information technology may be divided into several smaller acquisition increments that—

(1) Are easier to manage individually than would be possible in one comprehensive acquisition;

(2) Address complex information technology objectives incrementally in order to enhance the likelihood of achieving workable systems or solutions for attainment of those objectives;

(3) Provide for delivery, implementation, and testing of workable systems or solutions in discrete increments, each of which comprises a system or solution that is not dependent on any subsequent increment in order to perform its principal functions;

(4) Provide an opportunity for subsequent increments to take advantage of any evolution in technology or needs that occur during implementation and use of the earlier increments; and

(5) Reduce risk of potential adverse consequences on the overall project by

isolating and avoiding custom-designed components of the system.

(c) The characteristics of an increment may vary depending upon the type of information technology being acquired and the nature of the system being developed. The following factors may be considered:

(1) To promote compatibility, the information technology acquired through modular contracting for each increment should comply with common or commercially acceptable information technology standards when available and appropriate, and shall conform to the agency's master information technology architecture.

(2) The performance requirements of each increment should be consistent with the performance requirements of the completed, overall system within which the information technology will function and should address interface requirements with succeeding increments.

(d) For each increment, contracting officers shall choose an appropriate contracting technique that facilitates the acquisition of subsequent increments. Pursuant to Parts 16 and 17 of the Federal Acquisition Regulations, contracting officers shall select the contract type and method appropriate to the circumstances (e.g., indefinite delivery, indefinite quantity contracts, single contract with options, successive contracts, multiple awards, task order contracts). Contract(s) shall be structured to ensure that the Government is not required to procure additional increments.

(e) To avoid obsolescence, a modular contract for information technology should, to the maximum extent practicable, be awarded within 180 days after the date on which the solicitation is issued. If award cannot be made within 180 days, agencies should consider cancellation of the solicitation in accordance with 48 CFR 14.209 or 15.206(e). To the maximum extent practicable, deliveries under the contract should be scheduled to occur within 18 months after issuance of the solicitation.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 44, and 52

[FAC 97-04; Item XVI]

#### Federal Acquisition Regulations; 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 Federal Acquisition Regulations in order to update references, and make editorial changes.

**EFFECTIVE DATE:** February 23, 1998.

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

#### List of Subjects in 48 CFR Parts 1, 44 and 52

Government procurement.

Dated: February 13, 1998.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, 48 CFR Parts 1, 44 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 44 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

##### 1.201-1 [Amended]

1. Section 1.201-1 is amended in paragraph (b)(2) by adding "Social Security Administration," after "Agency,".

#### PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

##### 44.204 [Amended]

2. Section 44.204 is amended at the end of paragraph (b) by removing "See also 44.205."

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 52.219-1 [Amended]

3. Section 52.219-1 is amended by revising the date of the provision to read "(FEB 1998)", and in the parentheticals of paragraphs (b)(2) and (b)(3) by removing "block (b)(1) of this section" and adding "paragraph (b)(1) of this provision".

[FR Doc. 98-4307 Filed 2-20-98; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Chapter 1

#### Federal Acquisition Regulation; Small Entity Compliance Guide

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

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 97-04 which amends the FAR. The rules marked with an asterisk (\*) are those for which a final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Further information regarding these rules may be obtained by referring to FAC 97-04 which precedes this document. This document may be obtained from the Internet at <http://www.arnet.gov/far>.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, (202) 501-4755. For clarification of content, contact the analyst whose name appears in the table below.

#### LIST OF RULES IN FAC 97-04

Item	Subject	FAR case	Analyst
I .....	Use of Data Universal Numbering System as the Primary Contractor Identification .....	95-307	Moss.