

Dated: September 14, 1999.

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

Therefore, DoD, GSA, and NASA amend 48 CFR Parts 8 and 42 as set forth below:

1. The authority citation for 48 CFR Parts 8 and 42 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 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Add a new section 8.716 to read as follows:

8.716 Change-of-name and successor in interest procedures.

When the Committee recognizes a name change or a successor in interest for a JWOD participating nonprofit agency providing supplies or services on the Procurement List—

(a) The Committee will provide a notice of a change to the Procurement List to the cognizant contracting officers; and

(b) Upon receipt of a notice of a change to the Procurement List from the Committee, the contracting officer must—

(1) Prepare a Standard Form (SF) 30, Amendment of Solicitation/Modification of Contract, incorporating a summary of the notice and attaching a list of contracts affected; and

(2) Distribute the SF 30, including a copy to the Committee.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

3. Amend section 42.1203 to revise paragraph (a) to read as follows:

42.1203 Processing agreements.

(a) If a contractor wishes the Government to recognize a successor in interest to its contracts or a name change, the contractor must submit a written request to the responsible contracting officer (see 42.1202). If the contractor received its contract under Subpart 8.7 under the Javits-Wagner-O'Day Act, use the procedures at 8.716 instead.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11 and 52

[FAC 97-14; FAR Case 98-004; Item V]

RIN 9000-A112

Federal Acquisition Regulation; OMB Circular A-119

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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to address the use of voluntary consensus standards in accordance with the requirements of Office of Management and Budget (OMB) Circular A-119.

EFFECTIVE DATE: November 23, 1999.

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 Ms. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-14, FAR case 98-004.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of Management and Budget published a revised OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," in the **Federal Register** at 63 FR 8545, February 19, 1998. This rule revises FAR Subparts 11.1 and 11.2 and adds a new solicitation provision at 52.211-7 to implement the revised OMB circular.

A proposed rule was published in the **Federal Register** at 63 FR 68344, December 10, 1998. All comments were considered in the development of this final rule.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

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 amends the FAR to reflect the Government's preference for the use of voluntary consensus standards in accordance with OMB Circular A-119. The rule permits, but does not require, offerors to propose alternatives to Government-unique standards when responding to Government solicitations.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) applies because the final rule contains information collection requirements.

The Office of Management and Budget approved the information collection under clearance number 9000-0153 through February 28, 2002. This final rule does not affect those previously approved information collection requirements.

List of Subjects in 48 CFR Parts 11 and 52

Government procurement.

Dated: September 14, 1999.

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

Therefore, DoD, GSA, and NASA amend 48 CFR Parts 11 and 52 as set forth below:

1. The authority citation for 48 CFR Parts 11 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 11—DESCRIBING AGENCY NEEDS

2. In section 11.101, add paragraph (c) to read as follows:

§ 11.101 Order of precedence for requirements documents.

* * * * *

(c) In accordance with OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," agencies must use voluntary consensus standards, when they exist, in lieu of Government-unique standards, except where inconsistent with law or otherwise impractical. The private sector manages and administers voluntary consensus standards. Such standards are not

mandated by law (e.g., industry standards such as ISO 9000).

3. Revise section 11.107 to read as follows:

§ 11.107 Solicitation provision.

(a) Insert the provision at 52.211-6, Brand Name or Equal, when brand name or equal purchase descriptions are included in a solicitation.

(b) Insert the provision at 52.211-7, Alternatives to Government-Unique Standards, in solicitations that use Government-unique standards when the agency uses the transaction-based reporting method to report its use of voluntary consensus standards to the National Institute of Standards and Technology (see OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities"). Use of the provision is optional for agencies that report their use of voluntary consensus standards to the National Institute of Standards and Technology using the categorical reporting method. Agencies that manage their specifications on a contract-by-contract basis use the transaction-based method of reporting. Agencies that manage their specifications centrally use the categorical method of reporting. Agency regulations regarding specification management describe which method is used.

4. Revise paragraph (e) in section 11.201 to read as follows:

§ 11.201 Identification and availability of specifications.

* * * * *

(e) Agencies may purchase some nongovernment standards, including voluntary consensus standards, from the National Technical Information Service's Fedworld Information Network. Agencies may also obtain nongovernment standards from the standards developing organization responsible for the preparation, publication, or maintenance of the standard, or from an authorized document reseller. The National Institute of Standards and Technology can assist agencies in identifying sources for, and content of, nongovernment standards. DoD activities may obtain from the DoDSSP those nongovernment standards, including voluntary consensus standards, adopted for use by defense activities.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Add section 52.211-7 to read as follows:

§ 52.211-7 Alternatives to Government-unique standards.

As prescribed in 11.107(b), insert the following provision:

Alternatives to Government-Unique Standards (Nov 1999)

(a) This solicitation includes Government-unique standards. The offeror may propose voluntary consensus standards that meet the Government's requirements as alternatives to the Government-unique standards. The Government will accept use of the voluntary consensus standard instead of the Government-unique standard if it meets the Government's requirements unless inconsistent with law or otherwise impractical.

(b) If an alternative standard is proposed, the offeror must furnish data and/or information regarding the alternative in sufficient detail for the Government to determine if it meets the Government's requirements. Acceptance of the alternative standard is a unilateral decision made solely at the discretion of the Government.

(c) Offers that do not comply with the Government-unique standards specified in this solicitation may be determined to be nonresponsive or unacceptable. The offeror may submit an offer that complies with the Government-unique standards specified in this solicitation, in addition to any proposed alternative standard(s).

(End of provision)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 13, and 15

[FAC 97-14; FAR Case 98-300; Item VI]

RIN 9000-AI45

Federal Acquisition Regulation; Determination of Price Reasonableness and Commerciality

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Sections 803 and 808 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105-261).

EFFECTIVE DATE: September 24, 1999.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before November 23, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.98-300@gsa.gov

Please submit comments only and cite FAC 97-14, FAR case 98-300 in all correspondence related to this case.

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 Olson at (202) 501-0692. Please cite FAC 97-14, FAR case 98-300.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils initiated this case to implement Sections 803 and 808 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105-261) as follows:

(a) Section 803 of Public Law 105-261. (1) Paragraphs (a)(2)(A) through (a)(2)(C) of Section 803 of Public Law 105-261 require that the FAR provide specific guidance concerning—

(i) The appropriate application and precedence of various price analysis tools;

(ii) The circumstances under which contracting officers should require offerors of exempt commercial items to provide information other than cost or pricing data; and

(iii) The role and responsibility of support organizations in determining price reasonableness.

(2) Paragraph (a)(2)(D) of Section 803 is not implemented under this case.

(b) Section 808 of Public Law 105-261. Section 808 of Public Law 105-261 requires amending the FAR to—

(1) Clarify procedures associated with obtaining information other than cost or pricing data;

(2) Establish that offerors who fail to comply with requirements to provide the information shall be ineligible for award; and

(3) Establish exceptions, as appropriate.

This is not a significant regulatory action and, therefore, was not subject to Office of Management and Budget