

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular Number 90-39

Federal Acquisition Circular (FAC) 90-39 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.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-39 is effective August 19, 1996, except for Item XV which was effective September 30, 1995, and Items I, IV, VI, VIII, X, XII through XIV, XVII, XXII through XXV, and XXXI, which are effective June 20, 1996.

Dated: May 16, 1996.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: May 16, 1996.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy, General Services Administration.

Dated: May 6, 1996.

L.W. Bailets,

Acting Associate Administrator for Procurement National Aeronautics and Space Administration.

[FR Doc. 96-14515 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 4 and 52

[FAC 90-39; FAR Case 92-050; Item I]

RIN 9000-AG41

Federal Acquisition Regulation; Double-Sided Copying

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

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule which amends the Federal Acquisition Regulation (FAR) to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting written documents related to an acquisition. 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: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-050.

SUPPLEMENTARY INFORMATION:

A. Background

These revisions are based on a portion of Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention, dated October 20, 1993 (58 FR 54911), which encourages the use of double-sided copying on recycled paper for documents printed within the Government and under Government contracts.

An interim rule was published in the Federal Register at 60 FR 28493, May 31, 1995, as Item I, FAC 90-27. This interim rule amended FAR Part 4 to add a new subpart 4.3—Paper Documents, and amended FAR Part 52 to add a clause at 52.204-4, Printing/Copying Double-Sided on Recycled Paper. An additional amendment to section 4.304 was published at 60 FR 34744 on July 3, 1995, to eliminate the requirement for use of the clause at 52.204-4 in solicitations and contracts valued at or below the simplified acquisition threshold. Further amendments have been made in the final rule to implement Executive Order 12995 of March 25, 1996 (61 FR 13645, March 28, 1996), which amended Executive Order 12873 to revise the minimum content standards for printing and writing paper.

Seven comments from six sources were received in response to the interim rule. All comments were considered in developing the final rule.

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 under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule contains no mandatory requirements for offerors or contractors. The rule encourages, but does not require, the use of double-sided copying on recycled paper when submitting written documents to the Government. No comments were received on the impact of this rule on

small entities during the public comment period.

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 4 and 52

Government procurement.

Dated: June 4, 1996.

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Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending CFR Parts 4 and 52, which was published at 60 FR 28493, May 31, 1995 (FAC 90-27, Item I), and amended at 60 FR 34744, July 3, 1995, is adopted as a final rule with amendments at sections 4.301 and 52.204-4.

1. The authority citation for 48 CFR Parts 4 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 4—ADMINISTRATIVE MATTERS

4.301 [Amended]

2. Section 4.301 is amended by removing the period at the end of the sentence and inserting in its place “, as amended by Executive Order 12995, March 25, 1996.”

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.204-4 is amended by revising the date of the clause to read “(JUN 1996)”; in paragraph (a) of the clause by inserting after “October 20, 1993,” the phrase “as amended by Executive Order 12995, dated March 25, 1996,”; revising “20%” to read “20 percent”; and by revising paragraph (b) to read as follows:

52.204-4 Printing/Copying Double-Sided on Recycled Paper.

* * * * *

PRINTING/COPYING DOUBLE-SIDED
RECYCLED PAPER (JUN 1996)

* * * * *

(b) The 20 percent standard applies to high-speed copier paper, offset paper, forms

bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative to meeting the 20 percent postconsumer material standard is 50 percent recovered material content of certain industrial by-products.

(End of clause)

[FR Doc. 96-14516 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 4, 27, and 52

[FAC 90-39; FAR Case 95-004; Item II]

RIN 9000-AG95

Federal Acquisition Regulation; National Industrial Security Program Operating Manual (NISPOM)

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 reflect the applicability of the National Industrial Security Program Operating Manual (NISPOM). The NISPOM updates and replaces the DOD Industrial Security Manual for Safeguarding Classified Information (DOD 5220.22-M). 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: August 19, 1996.

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 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 95-004.

SUPPLEMENTARY INFORMATION:

A. Background

The National Industrial Security Program was established by Executive Order 12829, "National Industrial Security Program" (58 FR 3479). Section 201 of the Executive order directs the Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, and the Director of Central Intelligence, to issue and maintain a

National Industrial Security Program Operating Manual.

B. Regulatory Flexibility Act

This 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 comment is not required. Therefore, the Regulatory Flexibility Act does not apply. 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 cite 5 U.S.C. 601, *et seq.* (FAC 90-39, FAR case 95-004), 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 Parts 4, 27, and 52

Government procurement.

Dated: June 4, 1996.

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Therefore, 48 CFR Parts 4, 27, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4, 27, 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 4—ADMINISTRATIVE MATTERS

2. Section 4.402 is amended by revising paragraphs (a) and (b); and in paragraph (c) by removing "Section VIII of the ISR" and inserting in its place "Chapter 10 of the NISPOM". The revised text reads as follows:

4.402 General.

(a) Executive Order 12829, January 6, 1993 (58 FR 3479, January 8, 1993), entitled "National Industrial Security Program" (NISP), establishes a program to safeguard Federal Government classified information that is released to contractors, licensees, and grantees of the United States Government. Executive Order 12829 amends Executive Order 10865, February 20, 1960 (25 FR 1583, February 25, 1960), entitled "Safeguarding Classified Information Within Industry," as amended by Executive Order 10909,

January 17, 1961 (26 FR 508, January 20, 1961).

(b) The National Industrial Security Program Operating Manual (NISPOM) incorporates the requirements of these Executive Orders. The Secretary of Defense, in consultation with all affected agencies and with the concurrence of the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, and the Director of Central Intelligence, is responsible for issuance and maintenance of this Manual. The following DOD publications implement the program:

(1) *National Industrial Security Program Operating Manual* (NISPOM) (DOD 5220.22-M).

(2) *Industrial Security Regulation* (ISR) (DOD 5220.22-R).

* * * * *

4.403 and 4.404 [Amended]

3. Section 4.403 is amended in paragraphs (a)(1)(i), (b)(1), (c)(1), and (c)(2), by revising "DISP" to read "NISP"; and section 4.403(c)(1) is amended in the last sentence by removing "Section VII of".

3a. Section 4.404(d) is amended by revising "DISP" to read "NISP".

PART 27—PATENTS, DATA, AND COPYRIGHTS

27.207-1 [Amended]

4. Section 27.207-1 is amended in the second sentence of paragraph (b) by removing "Department of Defense Industrial Security Manual for Safeguarding Classified Security Information" and inserting in its place "National Industrial Security Program Operating Manual".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.204-2 [Amended]

5. Section 52.204-2 is amended by revising the introductory paragraph to read as set forth below; by revising the date of the clause to read "(AUG 1996)"; and in paragraph (b)(1) of the clause by removing "Department of Defense Industrial Security Manual for Safeguarding Classified Information" and inserting in its place "National Industrial Security Program Operating Manual". The revised text reads as follows:

52.204-2 Security requirements.

As prescribed in 4.404(a), insert the following clauses:

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[FR Doc. 96-14517 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P