

48 CFR Part 6

[FAC 90-39; FAR Case 96-302; Item III]

RIN 9000-AH00

**Federal Acquisition Regulation;
Justification and Approval Thresholds**

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 raise the dollar thresholds pertaining to approval for the use of other than full and open competition in the acquisition process. 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. 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 96-302.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 4102 of the Fiscal Year 1996 Defense Authorization Act (Public Law 104-106) amends 10 U.S.C. 2304(f)(1)(B) and 41 U.S.C. 253(f)(1)(B) to raise the dollar thresholds at which approval for the use of other than full and open competition must be obtained from the competition advocate, the head of the procuring activity, or the senior procurement executive. Section 4102 provides for approval of the justification for other than full and open competition by (1) the competition advocate, for proposed contracts over \$500,000, but not exceeding \$10,000,000; (2) the head of the procuring activity, or designee, for proposed contracts over \$10,000,000, but not exceeding \$50,000,000; and (3) the senior procurement executive, for proposed contracts over \$50,000,000.

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 subpart 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 96-302), 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 Part 6

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 6 is amended as set forth below:

**PART 6—COMPETITION
REQUIREMENTS**

1. The authority citation for 48 CFR Part 6 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 6.304 is amended in paragraph (a)(1) by revising “\$100,000” to read “\$500,000”; in (a)(2) by revising “\$100,000” to read “\$500,000” and “\$1,000,000” to read “\$10,000,000”; in (a)(3) introductory text by revising “\$1,000,000” to read “\$10,000,000” and “\$10,000,000” to read “\$50,000,000”; and revising (a)(4) to read as follows:

6.304 Approval of the justification.

(a) * * *

(4) For a proposed contract over \$50,000,000, by the senior procurement executive of the agency designated pursuant to the OFPP Act (41 U.S.C. 414(3)) in accordance with agency procedures. This authority is not delegable except in the case of the Under Secretary of Defense (Acquisition and Technology), acting as the senior procurement executive for the Department of Defense.

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48 CFR Parts 14, 15, 17, 25, and 52

[FAC 90-39; FAR Case 93-606; Item IV]

RIN 9000-AF39

**Federal Acquisition Regulation;
Implementation of Memorandum of
Understanding Between the United
States of America and the European
Economic Community on Government
Procurement and Sanctions Imposed
on the European Community**

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

ACTION: Interim rule adopted as final.

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 implement the Memorandum of Understanding Between the United States of America and the European Economic Community on Government Procurement (MOU) and to implement the sanctions imposed by the President on the European community (EC) prohibiting the award of certain contracts for EC products, services, and construction. 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. Peter O'Such at (202) 501-1759 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 93-606.

SUPPLEMENTARY INFORMATION:**A. Background**

An interim rule was published in the Federal Register on May 28, 1993 (58 FR 31140) (FAC 90-18). Revisions based on the analysis of public comments were incorporated in the interim rule published in FAC 90-19 as part of the implementation of the North American Free Trade Agreement Implementation Act (FAR case 93-310) (59 FR 544, January 5, 1994). The rule was further amended by an interim rule published in FAC 90-36 to implement the Uruguay Round Agreement Act (FAR case 95-304) (60 FR 67514, December 29, 1995).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final

rule, and a Final Regulatory Flexibility Analysis has been performed. A copy of the analysis may be obtained from the FAR Secretariat.

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 14, 15, 17, 25, and 52

Government procurement.

Interim Rule Adopted as Final

Accordingly, the interim rule amending 48 CFR Parts 14, 15, 17, 25, and 52, which was published at 58 FR 31140, May 28, 1993, and amended at 59 FR 544, January 5, 1994, and 60 FR 67514, December 29, 1995, is adopted as final without further change.

The authority citation for 48 CFR Parts 14, 15, 17, 25, 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).

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.
[FR Doc. 96-14519 Filed 6-19-96; 8:45 am]

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48 CFR Parts 14, 15, and 52

[FAC 90-39; FAR Case 91-095; Item V]

RIN 9000-AF48

Federal Acquisition Regulation; Postponement of Bid Openings or Closing 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 to amend the Federal Acquisition Regulation (FAR) to clarify the time for receipt of bids or proposals when an emergency or unanticipated event interrupts normal processes at a Government installation on the date scheduled for receipt of bids or proposals. 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. 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 91-095.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on November 9, 1993 (58 FR 59618). The proposed rule amended FAR 14.402-3, 15.411, 15.412, 52.214-7, and 52.215-10 to clarify policy regarding rescheduling of the time for receipt of bids or proposals when an emergency or unanticipated event interrupts normal Government processes and urgent requirements do not allow time to formally extend the bid opening or solicitation closing date. One substantive comment was received in response to the proposed rule. After evaluation of this comment, the Councils agreed to finalize the amendments in the proposed rule and to make similar clarifying amendments at FAR 52.214-23, 52.214-32, 52.214-33, and 52.215-36.

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 it merely clarifies policy regarding rescheduling of bid opening/solicitation closing dates when an emergency or unanticipated event occurs. 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 14, 15, and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 14, 15, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 14, 15, 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 14—SEALED BIDDING

2. Section 14.402-3 is amended by revising paragraph (c) to read as follows:

14.402-3 Postponement of openings.

* * * * *

(c) In the case of paragraph (a)(2) of this section, and when urgent Government requirements preclude amendment of the solicitation as prescribed in 14.208, the time specified for opening of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. In such cases, the time of actual bid opening shall be deemed to be the time set for bid opening for the purpose of determining "late bids" under 14.304. A note should be made on the abstract of bids or otherwise added to the file explaining the circumstances of the postponement.

PART 15—CONTRACTING BY NEGOTIATION

3. Section 15.411 is amended by revising paragraph (a) to read as follows:

15.411 Receipt of proposals and quotations.

(a) The procedures for receipt and handling of proposals and quotations should be similar to those prescribed in 14.401. Proposals and quotations shall be marked with the date and time of receipt.

* * * * *

4. Section 15.412 is amended by revising paragraph (b) to read as follows:

15.412 Late proposals, modifications, and withdrawals of proposals.

* * * * *

(b) Offerors are responsible for submitting offers, and any modifications to them, so as to reach the Government office designated in the solicitation on time. If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation closing date as usually prescribed by 15.410, the