

because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR part also 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.*, (FAR case 96-003), 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.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to fully implement Sections 2101 and 2151 of the Federal Acquisition Streamlining Act of 1994 with regard to the allowability of lobbying costs to influence local legislation. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Part 31:

Government procurement.

Dated: December 11, 1996.

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

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 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 31.205-22(b)(2) is revised to read as follows:

31.205-22 Lobbying and political activity costs.

* * * * *

(b) * * *

(2) Any lobbying made unallowable by paragraph (a)(3) of this subsection to influence state or local legislation in order to directly reduce contract cost, or to avoid material impairment of the contractor's authority to perform the contract.

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48 CFR Parts 46 and 52

[FAC 90-43; FAR Case 92-035; Item XII]

RIN 9000-AG76

Federal Acquisition Regulation; Clause Flowdown

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 to a final rule to amend the Federal Acquisition Regulation (FAR) to reduce the number of contract clauses requiring flowdown to subcontractors. 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: February 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 92-035.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils conducted an extensive review of all FAR clauses requiring flowdown to subcontractors in an effort to eliminate any unnecessary flowdown requirements. This final rule eliminates the requirement for flowdown of the clauses at FAR 52.215-26, 52.216-5, 52.216-6, 52.216-16, 52.216-17, 52.222-1, 52.236-21, 52.244-2, 52.246-23, 52.246-24, and 52.246-25.

A proposed rule was published in the Federal Register on December 27, 1995, at 60 FR 67024. Three sources submitted public comments. 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 within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because elimination of the mandatory flowdown requirements from the amended FAR clauses does not eliminate the ability of prime contractors and subcontractors to agree to similar clauses in appropriate circumstances.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose any new 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 46 and 52

Government procurement.

Dated: December 11, 1996.

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

Therefore, 48 CFR Parts 46 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 46 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 46—QUALITY ASSURANCE

46.806 [Removed]

2. Section 46.806 is removed.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215-26 [Amended]

3. Section 52.215-26 is amended by revising the clause date to read "(FEB 1997)", and by removing paragraph (d).

4. Section 52.216-5 is amended by revising the introductory paragraph, the clause date, and paragraph (i) to read as follows:

52.216-5 Price Redetermination—Prospective.

As prescribed in 16.205-4, insert the following clause:

PRICE REDETERMINATION—PROSPECTIVE (FEB 1997)

* * * * *

(i) *Subcontracts*. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

5. Section 52.216-6 is amended by revising the clause date and paragraph (h) to read as follows:

52.216-6 Price Redetermination—Retroactive.

* * * * *

PRICE REDETERMINATION—RETROACTIVE (FEB 1997)

* * * * *

(h) *Subcontracts*. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

6. Section 52.216-16 is amended by revising the introductory paragraph, the clause date, and paragraph (h) to read as follows:

52.216-16 Incentive Price Revision—Firm Target.

As prescribed in 16.405(a), insert the following clause:

INCENTIVE PRICE REVISION—FIRM TARGET (FEB 1997)

* * * * *

(h) *Subcontracts*. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

* * * * *

7. Section 52.216-17 is amended by revising the introductory paragraph, the clause date, and paragraph (j) to read as follows:

52.216-17 Incentive Price Revision—Successive Targets.

As prescribed in 16.405(b), insert the following clause:

INCENTIVE PRICE REVISION—SUCCESSIVE TARGETS (FEB 1997)

* * * * *

(j) *Subcontracts*. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

* * * * *

(End of clause)

* * * * *

8. Section 52.222-1 is amended by revising the introductory paragraph and the clause date; by removing the paragraph designation “(a)”; and by removing paragraph (b). The revised text reads as follows:

52.222-1 Notice to the Government of Labor Disputes.

As prescribed in 22.103-5(a), insert the following clause:

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

* * * * *

(End of clause)

52.236-21 [Amended]

9. Section 52.236-21 is amended by revising the clause date to read “(FEB 1997)”, and by removing paragraph (h).

52.244-2 [Amended]

10. Section 52.244-2 is amended by revising the clause date to read “(FEB 1997)”, by removing paragraph (i); and by redesignating paragraphs (j) and (k) as (i) and (j), respectively.

52.246-23 [Amended]

11. Section 52.246-23 is amended by revising the clause date to read “(FEB 1997)”, and by removing paragraph (d).

52.246-24 [Amended]

12. Section 52.246-24 is amended by revising the clause date to read “(FEB 1997)”, and by removing paragraphs (f) and (g).

52.246-25 [Amended]

13. Section 52.246-25 is amended by revising the clause date to read “(FEB 1997)”, and by removing paragraph (d).

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48 CFR Part 53

[FAC 90-43; FAR Case 95-310; Item XIII]

RIN 9000-AH36

Federal Acquisition Regulation; Collection of FASA-Related Information Within the Federal Procurement Data System

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 change the Standard Form 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and Standard Form 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report (\$25,000 or Less), to incorporate new information categories required by the Federal Acquisition Streamlining Act of 1994. 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 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-43, FAR case 95-310.

SUPPLEMENTARY INFORMATION:

A. Background

FASA added several new categories of information which agencies must be able to access from a computer file. The SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and the SF 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report (\$25,000 or Less), are used to collect that information and transmit it to the appropriate agency information management system. The forms are being amended to reflect the new information requirements and make minor administrative corrections.

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 FAR part 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 90-43, FAR case 95-310), 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 53

Government procurement.

Dated: December 11, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 53 is amended as set forth below:

PART 53—FORMS

1. The authority citation for 48 CFR Part 53 continues to read as follows: