

Year 1997 National Defense Authorization Act (Pub. L. 104-201). Section 809 places a Governmentwide ceiling of \$250,000 per year on allowable compensation costs for contractor personnel in senior management positions under contracts awarded during fiscal year 1997.

Item VIII—Independent Research and Development/Bid and Proposal Costs for Fiscal Year 1996 and Beyond (FAR Case 95-032)

This final rule amends the cost principle at FAR 31.205-18, Independent Research and Development (IR&D) and Bid and Proposal (B&P) Costs, and deletes FAR subpart 42.10, Negotiating Advance Agreements for Independent Research and Development/Bid and Proposal Costs. The rule removes, for fiscal year 1996 and beyond, the requirements to calculate or negotiate a ceiling for IR&D/B&P costs. In addition, the rule clarifies that costs incurred in preparing, submitting, and supporting offers on potential cooperative arrangements are allowable to the extent they are allocable, reasonable, and not otherwise unallowable.

Item IX—Travel Reimbursement (FAR Case 97-007)

This interim rule amends FAR 31.205-46 to raise, from \$25 to \$75, the maximum travel expense amount that contractor personnel may claim without providing a supporting receipt. This change is consistent with a recent amendment to the Federal Travel Regulation.

Item X—Protests to GAO (FAR Case 97-009)

This final rule amends the protest procedures at FAR 33.101 and 33.104 to conform with revisions made to the General Accounting Office Bid Protest Regulations.

Item XI—Novation and Related Agreements (FAR Case 95-034)

This final rule amends FAR subpart 42.12 to expand and clarify procedures for processing novation agreements, and for determining when use of a novation agreement is appropriate.

Item XII—Commercial Bills of Lading, Small Package Shipments (FAR Case 97-017)

This final rule amends FAR 47.303-17 to raise the threshold for requiring receipted freight bills for small package shipments from \$25 to \$100, and the maximum amount that the Government may pay for invoiced but unsupported transportation charges from \$100 to

\$250. These increased amounts are considered to more accurately reflect shipping costs in today's business environment.

Item XIII—Standard Form 1406, Preaward Survey of Prospective Contractor—Quality Assurance (FAR Case 96-022)

This final rule revises Standard Form 1406, Preaward Survey of Prospective Contractor—Quality Assurance, to delete references to canceled specifications, and to conform the language in the form to the current language in FAR part 46.

Item XIV—Technical Amendments

This document makes technical corrections to FAR 1.201-1, 19.811-1, and 42.203. Standard Forms 33, 1435, 1436, and 1437 are reissued to reflect changes to internal references as a result of the rewrite of FAR part 15. Standard Form 279 is reissued to provide accounting for purchases under the commercial test.

Dated: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97-03 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 97-03 is effective February 9, 1998, except for Items VI, IX, and XIV, which are effective December 9, 1997.

Dated: November 22, 1997.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: November 28, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: November 18, 1997.

Tom Luedtke,

Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1

[FAC 97-03; FAR Case 97-014; Item I]

RIN 9000-AH77

Federal Acquisition Regulation; Part 30 Deviations

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 remove the prohibition against authorizing deviations from certain sections pertinent to cost accounting standards administration. 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 9, 1998.

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. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-03, FAR case 97-014.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 1.402, Policy, to remove the prohibition against authorizing deviations from FAR Part 30 (except for subsections 30.201-3 and 30.201-4, or the Cost Accounting Standards Board (CASB) rules and regulations). This prohibition was added to the FAR when the CASB rules and regulations were added to FAR part 30. Since only the CASB has authority to waive CAS, the FAR part 30 deviation prohibition at FAR 1.402 was added to preclude the granting of a CAS waiver by other than the CASB. The prohibition was intended to apply to the CASB rules and regulations, not to the administration of CAS. Accordingly, the prohibition with respect to certain portions of FAR part 30 is no longer necessary since the CASB rules and

regulations have been removed from FAR part 30 and promulgated separately by the CASB in 48 CFR Chapter 99.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-03, FAR case 97-014), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the change to the FAR does 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 1

Government procurement.

Dated: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR part 1 is amended as set forth below:

PART 1—FEDERAL ACQUISITION REGULATION SYSTEM

1. The authority citation for 48 CFR part 1 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 1.402 is amended by revising the penultimate sentence to read as follows:

1.402 Policy.

* * * Deviations are not authorized with respect to 30.201-3 and 30.201-4, or the requirements of the Cost Accounting Standards Board (CASB) rules and regulations (48 CFR Chapter 99 (FAR Appendix)). * * *

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 5, 7, 8, 9, 12, 13, 16, 17, 19, 22, 32, 33, 34, 37, 38, 39, 45, 46, 51, 52, and 53

[FAC 97-03; FAR Case 96-319; Item II]

RIN 9000-AH75

Federal Acquisition Regulation; Information Technology Management Reform Act of 1996

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

ACTION: Interim rule adopted as final with change.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt as final, with change, the interim rule published as Item I of Federal Acquisition Circular 90-41 on August 8, 1996. The rule amends the Federal Acquisition Regulation (FAR) to implement the Information Technology Management Reform Act (ITMRA) of 1996, Division E of Pub. L. 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: February 9, 1998.

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. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-03, FAR case 96-319.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published in the **Federal Register** at 61 FR 41467, August 8, 1996. Twelve comments from four respondents were received during the public comment period. All comments were considered in the development of the final rule. In response to public comments on the interim rule, the definition of "information technology" at FAR 2.101 has been clarified.

B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been prepared and

will be provided to the Chief Counsel for Advocacy of the Small Business Administration. The analysis is summarized as follows:

ITMRA requires a simplified, clear, and understandable process in the FAR for acquiring information technology. No issues were raised in response to the Initial Regulatory Flexibility Analysis. The rule applies to all entities, large and small, that propose to perform, or are awarded, Government contracts for information technology. There are no statistics available on the exact number of small businesses that submit bids or proposals for contracts for information technology. However, based on information provided by the Federal Procurement Data System, a total of 29,879 awards were made to small businesses during fiscal year 1996 under information technology product codes with a total dollar value of \$4,443,176,000. The rule imposes no new reporting, recordkeeping, or other compliance requirements. There are no practical alternatives that will effectively implement ITMRA. The final rule simplifies and streamlines the process of acquiring information technology, and minimizes the economic burden of such acquisitions, while expanding opportunities for small entities to participate in Federal information technology contracts.

A copy of the FRFA 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 2, 5, 7, 8, 9, 12, 13, 16, 17, 19, 22, 32, 33, 34, 37, 38, 39, 45, 46, 51, 52, and 53

Government procurement.

Dated: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final With Change

Accordingly, the interim rule amending 48 CFR Parts 2, 5, 7, 8, 9, 12, 13, 16, 17, 19, 22, 32, 33, 34, 37, 38, 39, 45, 46, 51, 52, and 53, which was published at 61 FR 41467, August 8, 1996, is adopted as a final rule with the following change:

PART 2—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for 48 CFR Part 2 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).