

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) *Taxpayer Identification Number (TIN).*

☐ TIN: _____
☐ TIN has been applied for.
☐ TIN is not required because:
☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
☐ Offeror is an agency or instrumentality of a foreign government;
☐ Offeror is an agency or instrumentality of the Federal Government.

(e) *Type of organization.*

☐ Sole proprietorship;
☐ Partnership;
☐ Corporate entity (not tax-exempt);
☐ Corporate entity (tax-exempt);
☐ Government entity (Federal, State, or local);
☐ Foreign government;
☐ International organization per 26 CFR 1.6049-4;
☐ Other _____

(f) *Common parent.*

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

Name _____
 TIN _____

(End of provision)

9. Section 52.212-3 is amended by revising the date of the provision and paragraph (b) to read as follows:

52.212-3 Offeror representations and certifications—Commercial items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Oct 1998)

* * * * *

(b) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (b)(3)

through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN).*

☐ TIN: _____
☐ TIN has been applied for.
☐ TIN is not required because:
☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;
☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

☐ Sole proprietorship;
☐ Partnership;
☐ Corporate entity (not tax-exempt);
☐ Corporate entity (tax-exempt);
☐ Government entity (Federal, State, or local);
☐ Foreign government;
☐ International organization per 26 CFR 1.6049-4;
☐ Other _____

(5) *Common parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name _____
 TIN _____

* * * * *

52.214-2 [Reserved]

10. Section 52.214-2 is removed and reserved.

52.215-4 [Reserved]

11. Section 52.215-4 is removed and reserved.

[FR Doc. 98-28955 Filed 10-29-98; 8:45 am]

BILLING CODE 6820-EP-U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 13, 14, and 32

[FAC 97-09; FAR Case 97-304; Item II]

RIN 9000-A110

Federal Acquisition Regulation; Electronic Commerce in Federal Procurement

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 have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 850 of the National Defense Authorization Act for Fiscal Year 1998 by removing Federal Acquisition Computer Network (FACNET) specific terms and requirements and replacing them with more flexible electronic commerce policies. 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: October 30, 1998.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 29, 1998, 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.

E-Mail comments submitted over the Internet should be addressed to: farcase.97-304@gsa.gov

Please cite FAC 97-09, FAR case 97-304, 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 Ms. Linda K. Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-09, FAR case 97-304.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule revises FAR Subpart 4.5 and makes associated changes to FAR Parts 2, 5, 13, 14, and 32 to implement Section 850 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 850 amends Titles 10, 15, 40, and 41 of the United States Code to eliminate the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) Architecture. Additionally, Section 850 provides a more flexible electronic commerce policy by promoting the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems and the use of nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information. In order to facilitate access to Federal procurement opportunities, Section 850 mandates that a single, Governmentwide point of entry be used that will provide universal public access to procurement opportunities Governmentwide. In the report submitted to Congress by the President's Management Council Electronic Processes Initiatives Committee entitled "Electronic Commerce For Buyers and Sellers," the Committee endorsed a World Wide Web-based electronic system that would provide the private sector direct access to Federal procurement opportunities at a single location.

In an effort to distribute acquisition-related information to industry more quickly and economically, an electronic posting system is now being tested by several Federal agencies. This system will permit buyers to post solicitations and other pertinent information, in addition to notices, directly to the Internet, thus giving sellers access to this information through a single, Governmentwide point of entry. If testing demonstrates that this electronic posting system is capable of providing effective access to notices and solicitations through a single point of entry, consideration will be given by the Administrator of OFPP to designating it as the "single, Governmentwide point of entry," and the FAR will be changed accordingly.

In the meantime, FACNET is the Governmentwide system that provides universal user access, employs nationally and internationally recognized data formats, and allows the electronic data interchange of acquisition information between the private sector and the Federal

Government. FACNET qualifies as the single, Governmentwide point of entry until the Administrator of the Office of Federal Procurement Policy designates the single, Governmentwide point of entry.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant negative 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 is more flexible than the current FAR policy regarding the Federal electronic commerce architecture. It may be easier for some small entities to conduct business with the Federal Government over the World Wide Web, for instance, than using a value-added network to conduct business over FACNET. Since this may result in a positive impact on small entities, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

The objectives of the rule are (1) to promote the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems, and (2) to apply nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information. These objectives are stated in Section 850 of Public Law 105-85. The legal authority to use electronic commerce for Government contracting actions was confirmed in General Accounting Office (GAO) Advisory Opinion B-238449. The opinion concluded that electronic transactions can create legally binding contractual obligations in accordance with 31 U.S.C. 1501. The interim rule applies to all large and small entities that do business or are planning to do business with the Government. The ability to use electronic architectures other than FACNET, such as the World Wide Web, to conduct electronic commerce will increase competition by improving access to Federal contracting opportunities for the more than 72,995 vendors currently doing business with the Government, particularly small businesses, as well as many other vendors that find access to bidding opportunities difficult under the current system.

A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration and may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subparts also 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 97-09, FAR Case 97-304), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping requirements or collections of information from offerors, contractors, or members of the public that 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 implement Section 850 of Public Law 105-85, which eliminates the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) Architecture. Section 850 became effective on May 17, 1998. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 2, 4, 5, 13, 14, and 32

Government procurement.

Dated: October 22, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 2, 4, 5, 13, 14, and 32 are amended as set forth below:

1. The authority citation for 48 CFR Parts 2, 4, 5, 13, 14, and 32 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 2—DEFINITIONS OF WORDS AND TERMS

2. Section 2.101 is amended by adding, in alphabetical order, the definition "Electronic commerce"; revising the definition "Federal Acquisition Computer Network (FACNET) Architecture"; and removing the definitions "Full FACNET", "Governmentwide FACNET", and "Interim FACNET" to read as follows:

2.101 Definitions.

* * * * *

Electronic commerce means electronic techniques for accomplishing business transactions including electronic mail or

messaging, World Wide Web technology, electronic bulletin boards, purchase cards, electronic funds transfer, and electronic data interchange.

* * * * *

Federal Acquisition Computer Network (FACNET) Architecture is a Governmentwide system that provides universal user access, employs nationally and internationally recognized data formats, and allows the electronic data interchange of acquisition information between the private sector and the Federal Government. FACNET qualifies as the single, Governmentwide point of entry pending designation by the Administrator of the Office of Federal Procurement Policy (OFPP).

* * * * *

PART 4—ADMINISTRATIVE MATTERS

3. Subpart 4.5, consisting of sections 4.500 through 4.502, is revised to read as follows:

Subpart 4.5—Electronic Commerce in Contracting

Sec.

4.500 Scope of subpart.

4.501 Definitions.

4.502 Policy.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of electronic commerce in Federal acquisition as required by Section 30 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 426).

4.501 Definitions.

Electronic data interchange (EDI), as used in this subpart, means a technique for electronically transferring and storing formatted information between computers utilizing established and published formats and codes, as authorized by the applicable Federal Information Processing Standards.

Single, Governmentwide point of entry, as used in this subpart, means the one point of entry to be designated by the Administrator of OFPP that will allow the private sector to electronically access procurement opportunities Governmentwide.

4.502 Policy.

(a) The Federal Government shall use electronic commerce whenever practicable or cost-effective. The use of terms commonly associated with paper transactions (e.g., "copy," "document," "page," "printed," "sealed envelope," and "stamped") shall not be interpreted

to restrict the use of electronic commerce. Contracting officers may supplement electronic transactions by using other media to meet the requirements of any contract action governed by the FAR (e.g., transmit hard copy of drawings).

(b) Agencies may exercise broad discretion in selecting the hardware and software that will be used in conducting electronic commerce. However, as required by Section 30 of the OFPP Act (41 U.S.C. 426), the head of each agency, after consulting with the Administrator of OFPP, shall ensure that systems, technologies, procedures, and processes used by the agency to conduct electronic commerce—

(1) Are implemented uniformly throughout the agency, to the maximum extent practicable;

(2) Are implemented only after considering the full or partial use of existing infrastructures, (e.g., the Federal Acquisition Computer Network (FACNET));

(3) Facilitate access to Government acquisition opportunities by small business concerns, small disadvantaged business concerns, and women-owned small business concerns;

(4) Include a means of providing widespread public notice of acquisition opportunities through the single, Governmentwide point of entry and a means of responding to notices or solicitations electronically; and

(5) Comply with nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information, such as standards established by the National Institute of Standards and Technology.

(c) Before using electronic commerce, the agency head shall ensure that the agency systems are capable of ensuring authentication and confidentiality commensurate with the risk and magnitude of the harm from loss, misuse, or unauthorized access to or modification of the information.

PART 5—PUBLICIZING CONTRACT ACTIONS

4. Section 5.101 is amended by revising paragraph (a)(2)(ii) and the last sentence of (a)(2)(iv) to read as follows:

5.101 Methods of disseminating information.

* * * * *

(a) * * *

(2) * * *

(ii) The contracting officer need not comply with the display requirements of this section when the exemptions at 5.202(a)(1), (a)(4) through (a)(9), or (a)(11) apply, when oral or FACNET

solicitations are used, or when providing access to a notice of proposed contract action through the single, Governmentwide point of entry and the notice permits the public to respond to the solicitation electronically.

* * * * *

(iv) * * * Contracting offices using electronic systems for public posting that are not accessible outside the installation shall periodically publicize the methods for accessing such information.

* * * * *

5. Section 5.102 is amended by revising paragraphs (a)(2) and (a)(7) to read as follows:

5.102 Availability of solicitations.

(a) * * *

(2) Provide copies of a solicitation issued under other than full and open competition to firms requesting copies that were not initially solicited, but only after advising the requester of the determination to limit the solicitation to a specified firm or firms as authorized under Part 6 of the FAR;

* * * * *

(7) If electronic commerce is employed in the solicitation process, availability of the solicitation may be limited to the electronic medium.

* * * * *

6. Section 5.202 is amended by revising paragraph (a)(13), by removing (a)(14), and by redesignating (a)(15) as (a)(14). The revised text reads as follows:

5.202 Exceptions.

* * * * *

(a) * * *

(13) The proposed contract action—
(i) Is for an amount not expected to exceed the simplified acquisition threshold;

(ii) Will be made through FACNET or another means that provides access to the notice of proposed contract action through the single, Governmentwide point of entry; and

(iii) Permits the public to respond to the solicitation electronically; or

* * * * *

7. Section 5.203 is amended by revising paragraph (b) to read as follows:

5.203 Publicizing and response time.

* * * * *

(b) The contracting officer shall establish a solicitation response time that will afford potential offerors a reasonable opportunity to respond to each proposed contract action (including actions via FACNET or for which the notice of proposed contract action is accessible through the single,

Governmentwide point of entry), in an amount estimated to be greater than \$25,000, but not greater than the simplified acquisition threshold; or each contract action for the acquisition of commercial items in an amount estimated to be greater than \$25,000. The contracting officer should consider the circumstances of the individual acquisition, such as the complexity, commerciality, availability, and urgency, when establishing the solicitation response time.

* * * * *

5.202, 5.203, 5.205, 5.207 [Amended]

8. In addition to the amendments set forth above, in Subpart 5.2, remove the term "contract action" or "contract actions" and add "proposed contract action" or "proposed contract actions", respectively, in the following places:

a. Section 5.202(a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8) (twice), (a)(9), (a)(10), (a)(11) (twice), (a)(12) (4 times), and (a)(14);

b. Section 5.203 introductory paragraph, (a) introductory text, (c), (d), (e) (twice), and (g);

c. Section 5.205(d)(2);

d. Section 5.207(c)(2)(xi), (e)(3) (twice), and (h).

9. Section 5.301 is amended by revising paragraph (b)(7) to read as follows:

5.301 General.

* * * * *

(b) * * *

(7) The contract action—

(i) Is for an amount not greater than the simplified acquisition threshold;

(ii) Was conducted by using FACNET, or access to the notice of proposed contract action was provided through the single, Governmentwide point of entry; and

(iii) Permitted the public to respond to the solicitation electronically; or

* * * * *

10. Section 5.503 is amended by revising paragraph (a)(2) to read as follows:

5.503 Procedures.

(a) * * *

(2) The contracting officer shall use the SF 1449 for paper solicitations. The SF 1449 shall be used to make awards or place orders unless the award/order is made by using electronic commerce or by using the Governmentwide commercial purchase card for micropurchases.

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

11. Section 13.003 is amended by removing paragraph (c); redesignating paragraphs (d) through (i) as (c) through (h), respectively; and revising newly redesignated paragraphs (f) and (h)(3) to read as follows:

13.003 Policy.

* * * * *

(f) Agencies shall maximize the use of electronic commerce when practicable and cost-effective (see Subpart 4.5). Drawings and lengthy specifications can be provided off-line in hard copy or through other appropriate means.

* * * * *

(h) * * *

(3) Consider all quotations or offers that are timely received. For evaluation of quotations or offers received electronically, see 13.106–2(b)(3); and

* * * * *

12. Section 13.102 is amended by revising the introductory text of paragraph (a) to read as follows:

13.102 Source list.

(a) Each contracting office should maintain a source list (or lists, if more convenient). A list of new supply sources may be obtained from the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration. The list should identify the status of each source (when the status is made known to the contracting office) in the following categories:

* * * * *

13. Section 13.104 is amended by revising the first sentence of paragraph (b) to read as follows:

13.104 Promoting competition.

* * * * *

(b) If using simplified acquisition procedures and not using either FACNET or providing access to the notice of proposed contract action through the single, Governmentwide point of entry, maximum practicable competition ordinarily can be obtained by soliciting quotations or offers from sources within the local trade area.

* * * * *

14. Section 13.105 is amended by revising paragraph (a)(1) to read as follows:

13.105 Synopsis and posting requirements.

(a) * * *

(1)(i) FACNET is used for an acquisition at or below the simplified acquisition threshold; or

(ii) The single, Governmentwide point of entry is used at or below the

simplified acquisition threshold for providing widespread public notice of acquisition opportunities and offerors are provided a means of responding to the solicitation electronically; or

* * * * *

15. Section 13.106–1 is amended by revising paragraphs (c)(1)(ii) and (f) to read as follows:

13.106–1 Soliciting competition.

* * * * *

(c) * * *

(1) * * *

(ii) Oral solicitation is more efficient than soliciting through available electronic commerce alternatives; and

* * * * *

(f) *Inquiries.* An agency should respond to inquiries received through any medium (including FACNET) if doing so would not interfere with the efficient conduct of the acquisition. For an acquisition conducted through FACNET, an agency must respond to telephonic or facsimile inquiries only if it is unable to receive inquiries through FACNET.

16. Section 13.106–2 is amended by revising the introductory text of paragraph (b)(3) to read as follows:

13.106–2 Evaluation of quotations or offers.

* * * * *

(b) * * *

(3) For acquisitions conducted using FACNET or a method that permits electronic response to the solicitation, the contracting officer may—

* * * * *

17. Section 13.106–3 is amended by revising paragraph (c) to read as follows:

13.106–3 Award and documentation.

* * * * *

(c) *Notification.* For acquisitions that do not exceed the simplified acquisition threshold and for which automatic notification is not provided through FACNET or an electronic commerce method that employs widespread electronic public notice, notification to unsuccessful suppliers shall be given only if requested or required by 5.301.

* * * * *

13.307 [Amended]

18. Section 13.307 is amended in paragraph (b)(1) by removing "other electronic means," and inserting "electronically,".

PART 14—SEALED BIDDING

19. Section 14.205–1 is amended by revising the second sentence of paragraph (a) to read as follows:

14.205-1 Establishment of lists.

(a) * * * This rule need not be followed, however, when the requirements of the contracting office can be obtained through use of simplified acquisition procedures (see part 13); the requirements are nonrecurring; or electronic commerce methods are used that transmit solicitations or notices of procurement opportunities automatically to all interested sources. * * *

* * * * *

14.400 [Amended]

20. Section 14.400 is amended by removing "contract" and inserting "contracts".

PART 32—CONTRACT FINANCING**32.1103 [Amended]**

21. Section 32.1103 is amended in paragraph (a) by removing "13.003(f)" and inserting "13.003(e)".

[FR Doc. 98-28956 Filed 10-29-98; 8:45 am]

BILLING CODE 6820-EP-U

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 6, 24, 33, and 52**

[FAC 97-09; FAR Case 97-015; Item III]

RIN 9000-AH72

**Federal Acquisition Regulation;
Alternative Dispute Resolution—1996**

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 implement the Administrative Dispute Resolution Act of 1996 (Pub. L. 104-320) and Section 4321(a)(7) of the Clinger-Cohen Act of 1996 (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: December 29, 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 Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-09, FAR case 97-015.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule amends FAR Parts 6, 24, 33, and 52 to implement the Administrative Dispute Resolution Act of 1996 (Pub. L. 104-320) and Section 4321(a)(7) of the Clinger-Cohen Act of 1996 (Pub. L. 104-106). The rule makes clear the authority to contract with a neutral person as an exception to requirements for full and open competition, revises requirements for certification of a claim under the Administrative Dispute Resolution Act to conform to the requirements under the Contract Disputes Act, and specifies that certain dispute resolution communications are exempt from disclosure under the Freedom of Information Act.

A proposed rule was published in the **Federal Register** at 62 FR 55678, October 27, 1997. Comments were received from eight sources. All comments were considered in the development of 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 the rule adds guidance pertaining to, but does not significantly alter the procedures for, alternative dispute resolution. Alternative dispute resolution procedures allow voluntary resolution of issues in controversy.

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.* However, it does reduce the information collection requirements relating to Certification of Claims, OMB Control No. 9000-0035. Accordingly, a request to reduce the total burden hours has been submitted to OMB.

List of Subjects in 48 CFR Parts 6, 24, 33, and 52

Government procurement.

Dated: October 22, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 6, 24, 33, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 6, 24, 33, 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 6—COMPETITION
REQUIREMENTS**

2. Section 6.302-3 is amended by revising paragraph (a)(2)(iii) to read as follows:

6.302-3 Industrial mobilization; engineering, developmental, or research capability; or expert services.

(a) * * *

(2) * * *

(iii) To acquire the services of an expert or neutral person (see 33.201) for any current or anticipated litigation or dispute.

* * * * *

**PART 24—PROTECTION OF PRIVACY
AND FREEDOM OF INFORMATION**

3. Section 24.202 is amended by adding paragraph (c) read as follows:

24.202 Prohibitions.

* * * * *

(c) A dispute resolution communication that is between a neutral person and a party to alternative dispute resolution proceedings, and that may not be disclosed under 5 U.S.C. 574, is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(3)).

**PART 33—PROTESTS, DISPUTES,
AND APPEALS**

4. Section 33.201 is amended by revising the definition "Alternative dispute resolution (ADR)" to read as follows:

33.201 Definitions.

* * * * *

Alternative dispute resolution (ADR) means any type of procedure or combination of procedures voluntarily used to resolve issues in controversy. These procedures may include, but are not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombudsmen.

* * * * *