

## DEPARTMENT OF DEFENSE

GENERAL SERVICES  
ADMINISTRATIONNATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

## 48 CFR Parts 11 and 52

[FAR Case 98-004]

RIN 9000-A112

Federal Acquisition Regulation; OMB  
Circular A-119

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to address the use of voluntary consensus standards in accordance with the requirements of Office of Management and Budget (OMB) Circular A-119.

**DATES:** Comments should be submitted on or before February 8, 1999 to be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Ms. Laurie Duarte, 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.98-004@gsa.gov. Please cite FAR case 98-004 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. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAR case 98-004.

## SUPPLEMENTARY INFORMATION:

## A. Background

On February 19, 1998, a newly revised OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," was published in the **Federal Register** at 63 FR 8545, February 19, 1998. This proposed rule amends FAR Subparts 11.1 and 11.2,

and provides a new solicitation provision at 52.211-XX to implement the revised OMB circular.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

## B. Regulatory Flexibility Act

This proposed rule is not expected to 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 merely amends the FAR to reflect the Government's preference for the use of voluntary consensus standards in accordance with OMB Circular A-119, and permits, but does not require, offerors to propose alternatives to Government-unique standards when responding to Government solicitations. An Initial Regulatory Flexibility Analysis has not been performed. Comments are invited from small businesses and other interested parties. 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.* (FAR Case 98-004), in correspondence.

## C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for review of a new information collection requirement concerning OMB Circular A-119 will be submitted to OMB under 44 U.S.C. 3501, *et seq.*

## Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: *Respondents:* 100; *Responses per respondent:* 1; *Total annual responses:* 100; *Preparation hours per response:* 1; and *Total response burden hours:* 100.

D. Request for Comments Regarding  
Paperwork Burden

Members of the public are invited to comment on the recordkeeping and information collection requirements and estimates set forth above. Please send comments to: Office of Information and

Regulatory Affairs, Office of Management and Budget, Attention: Mr. Peter N. Weiss, FAR Desk Officer, New Executive Office Building, Room 10102, 725 17th Street, NW, Washington, DC 20503.

Also send a copy of any comments to the FAR Secretariat at the address shown under **ADDRESSES**. Please cite FAR Case 98-004 in all correspondence.

## List of Subjects in 48 CFR Parts 11 and 52

Government procurement.

**Victoria Moss,**

*Acting Director, Federal Acquisition Policy Division.*

Therefore, it is proposed that 48 CFR Parts 11 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 11 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 11—DESCRIBING AGENCY  
NEEDS

2. Section 11.101 is amended by adding paragraph (c) to read as follows:

11.101 Order of precedence for  
requirements documents.

\* \* \* \* \*

(c) In accordance with OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," agencies shall use voluntary consensus standards, when they exist, in lieu of Government-unique standards, except where inconsistent with law or otherwise impractical. Voluntary consensus standards are developed and administered by the private sector and are not mandated by law (e.g. industry standards such as ISO 9000).

3. Section 11.10X is added to read as follows:

## 11.10X Solicitation provision.

The contracting officer shall insert the provision at 52.211-XX, Alternatives to Government-Unique Standards, in solicitations that use Government-unique standards instead of voluntary consensus standards, when the agency uses the transaction-based reporting method to report their use of voluntary consensus standards to the National Institute of Standards and Technology (see OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities"). Agencies that report their use of voluntary consensus standards to

the National Institute of Standards and Technology using the categorical reporting method do not need to include the provision at 52.211-XX. The transaction based method of reporting is used by agencies that manage their specifications on a contract-by-contract basis. The categorical method of reporting is used by agencies that manage their specifications centrally. Agency regulations regarding specification management describe which method is used.

4. Section 11.201 is amended by revising paragraph (e) to read as follows:

**11.201 Identification and availability of specifications.**

\* \* \* \* \*

(e) DoD activities may obtain from the DoDSSP those nongovernment

standards, including voluntary consensus standards, adopted for use by defense activities. Other activities may obtain nongovernment standards from the National Institute of Standards and Technology, Government libraries, activities subscribing to document handling services or the organization responsible for the preparation, publication or maintenance of the standard.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

5. Section 52.211-XX is added to read as follows:

**52.211-XX Alternatives to Government-Unique Standards.**

As prescribed in 11.10X, insert the following provision:

**Alternatives to Government—Unique Standards [Date]**

(a) Offerors are responsible for reviewing all requirements of this solicitation, including all standards.

(b) Offerors may propose alternatives to Government-unique standards that meet the Government's requirements. If an alternative is proposed, the offeror must furnish data and/or information regarding the alternative standard in sufficient detail for the Government to determine if the alternative meets the Government's requirements. The Contracting Officer will have sole discretion to determine whether it is in the Government's best interest to apply any proposed alternative to this acquisition.

(End of clause)

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