

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 46 and 52**

[FAC 97-10; FAR Case 96-009; Item VI]

RIN 9000-AH61

**Federal Acquisition Regulation;  
Contract Quality Requirements**

**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 reflect a preference for commercial contract quality requirements, rather than Federal or military specifications, and to permit greater flexibility in specifying higher-level contract quality requirements.

**EFFECTIVE DATE:** February 16, 1999.

**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 Klein, Procurement Analyst, at (202) 501-3775. Please cite FAC 97-10, FAR case 96-009.

**SUPPLEMENTARY INFORMATION:****A. Background**

A proposed rule was published in the **Federal Register** at 62 FR 35891, July 2, 1997. The revisions in the final rule are based on the analysis of public comments and further clarification of the rule. The rule revises FAR 46.202-4, 46.311, and the clause at 52.246-11 to replace references to Government specifications with references to commercial quality standards as examples of higher-level contract quality requirements; to require the contracting officer to indicate in the

solicitation which higher-level quality standards will satisfy the Government's requirement; and, if more than one standard is listed in the solicitation, to require the offeror to indicate its selection by checking a block.

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.

**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 the rule merely clarifies procedures for, and permits greater flexibility in, specifying higher-level quality requirements in Government contracts.

**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 46 and 52**

Government procurement.

Dated: December 14, 1998.

**Ralph DeStefano,**

*Acting 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**

2. Section 46.202-4 is revised to read as follows:

**46.202-4 Higher-level contract quality requirements.**

(a) Requiring compliance with higher-level quality standards is appropriate in solicitations and contracts for complex or critical items (see 46.203(b) and (c)) or when the technical requirements of the contract require—

(1) Control of such things as work operations, in-process controls, and inspection; or

(2) Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology.

(b) When the contracting officer, in consultation with technical personnel, finds it is in the Government's interest to require that higher-level quality standards be maintained, the contracting officer shall use the clause prescribed at 46.311. The contracting officer shall indicate in the clause which higher-level quality standards will satisfy the Government's requirement. Examples of higher-level quality standards are ISO 9001, 9002, or 9003; ANSI/ASQC Q9001, Q9002, or Q9003; QS-9000; AS-9000; ANSI/ASQC E4; and ANSI/ASME NQA-1.

3. Section 46.311 is revised to read as follows:

**46.311 Higher-level contract quality requirement.**

The contracting officer shall insert the clause at 52.246-11, Higher-Level Contract Quality Requirement, in solicitations and contracts when the inclusion of a higher-level contract quality requirement is appropriate (see 46.202-4).

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

4. Section 52.246-11 is revised to read as follows:

**52.246-11 Higher-Level Contract Quality Requirement.**

As prescribed in 46.311, insert the following clause:

**Higher-Level Contract Quality Requirement (Feb 1999)**

The Contractor shall comply with the higher-level quality standard selected below. [If more than one standard is listed, the offeror shall indicate its selection by checking the appropriate block.]

Title	Number	Date	Tailoring
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

[Contracting Officer insert the title, number (if any), date, and tailoring (if any) of the higher-level quality standards.]  
(End of clause)

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### 48 CFR Part 46

[FAC 97-10; FAR Case 97-027; Item VII]

RIN 9000-AH94

#### Federal Acquisition Regulation; Mandatory Government Source Inspection

**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 facilitate the elimination of unnecessary requirements for Government contract quality assurance at source. This rule deletes the mandatory requirement for Government contract quality assurance at source on all contracts that include a higher-level contract quality requirement, and for supplies requiring inspection that are destined for overseas shipment.

**EFFECTIVE DATE:** February 16, 1999.

**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 Klein, Procurement Analyst, at (202) 501-3775. Please cite FAC 97-10, FAR case 97-027.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends FAR 46.402 to eliminate unnecessary requirements for Government contract quality assurance at source. The rule eliminates mandatory Government source inspection under contracts that contain higher-level quality requirements or that cover supplies to be shipped overseas.

A proposed rule was published in the **Federal Register** at 63 FR 13770, March

20, 1998. Nine respondents submitted comments on the proposed rule. All comments were considered in the development of the final rule.

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.

##### B. Regulatory Flexibility Act

A Final Regulatory Flexibility Analysis (FRFA) has been prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. The analysis is summarized as follows:

No public comments were received in response to the Initial Regulatory Flexibility Analysis.

We expect both large and small entities to experience a reduction in the administrative burden by eliminating unnecessary Government source inspection under contracts that contain higher-level quality requirements or that cover supplies to be shipped overseas. DoD and civilian agencies administer the contracts of approximately 20,289 large businesses and 51,691 small entities. Approximately 20 percent have contracts that contain the clause at FAR 52.246-11, Higher level Contract Quality Requirement (Government Specification).

There are no reporting, recordkeeping, or other compliance requirements likely to result from the rule.

No significant negative economic impacts of the rule were identified during our analysis or during the public comment period. The rule is expected to reduce costs and administrative burdens for both contractors and the Government.

We expect these revisions to contribute to an efficient and effective acquisition process. We initially considered making all of the requirements at FAR 46.402 discretionary but decided that this would be premature since a Defense Contract Management Command process action team reviewing source inspection and acceptance policies has not completed its review and made its final recommendations.

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 Part 46

Government procurement.

Dated: December 14, 1998.

**Ralph DeStefano,**

*Acting Director, Federal Acquisition Policy Division.*

Therefore, 48 CFR Part 46 is amended as set forth below:

#### PART 46—QUALITY ASSURANCE

1. The authority citation for 48 CFR Part 46 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).

##### 46.402 [Amended]

2. Section 46.402 is amended—
  - a. By removing paragraphs (e) and (g);
  - b. By redesignating paragraphs (f) and (h) as (e) and (f), respectively; and
  - c. In the newly designated paragraph (e) by adding “or” at the end of the paragraph.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### 48 CFR Part 48

[FAC 97-10; FAR Case 96-011; Item VIII]

RIN 9000-AH37

#### Federal Acquisition Regulation; No- Cost Value Engineering Change Proposals

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

**ACTION:** Interim rule adopted as final without change.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published as Item X of Federal Acquisition Circular 97-05 at 63 FR 34078, June 22, 1998, to a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to clarify that no-cost value engineering change proposals (VECPs) may be used when, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government.

**EFFECTIVE DATE:** December 18, 1998.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS