

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 96-011.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published at 63 FR 34078, June 22, 1998, to clarify that the no-cost VECP guidance at FAR 48.104-3 permits the use of no-cost settlements when the contracting officer has balanced the administrative costs of negotiating a settlement against the anticipated savings; and 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. The no-cost VECP alternative was not intended for use when significant cost savings are anticipated on the instant contract.

No public comments were received in response to the interim FAR rule. Therefore, the interim FAR rule is being converted to a final rule without change.

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 Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* applies to this final rule. A Final Regulatory Flexibility Analysis (FRFA) has been performed and is summarized as follows:

This rule clarifies that the guidance at FAR 48.104-3, Sharing alternatives—no-cost settlement method, permits use of no-cost VECP settlements when the contracting officer has balanced the administrative costs of negotiating a settlement against the anticipated savings; and, 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. The no-cost VECP alternative was not intended for use when significant cost savings are anticipated on the instant contract.

The FRFA has been provided to the Chief Counsel for Advocacy of the Small Business Administration. 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 48

Government procurement.

Dated: December 14, 1998.

Ralph DeStefano,

Acting Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 48, which was published at 63 FR 34078, June 22, 1998, is adopted as a final rule without change.

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

[FR Doc. 98-33520 Filed 12-16-98; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 97-10; FAR Case 97-011; Item IX]

RIN 9000-AH73

Federal Acquisition Regulation; Evidence of Shipment in Electronic Data Interchange (EDI) Transactions

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 use of electronic data interchange (EDI) transactions and to streamline the payment process when supplies are purchased on a free on board (f.o.b.) destination basis with inspection and acceptance at origin. **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 Nelson, Procurement Analyst, at

(202) 501-1900. Please cite FAC 97-10, FAR case 97-011.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule revises the clause at FAR 52.247-48 to facilitate the use of EDI for submission of invoices under contracts awarded on an f.o.b. destination basis with inspection and acceptance at origin. The rule eliminates requirements for contractors to provide evidence of shipment with invoices for payment under such contracts. However, contractors are required to retain, and to make available to the Government for review as necessary, the evidence of shipment documentation for a period of 3 years after final payment under the contract.

A proposed rule was published on January 27, 1998 (63 FR 4074). Six sources submitted comments in response to 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

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 applies to a limited number of contracts, *i.e.*, contracts for the purchase of supplies on an f.o.b. destination basis with inspection and acceptance at origin. Therefore, the rule is estimated to affect only a small number of entities, both large and small.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the final rule contains information collection requirements. Accordingly, a revised paperwork burden under OMB Clearance 9000-0061 reflecting a slight increase to the hours will be forwarded to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this request were invited through a *Federal Register* notice published on January 27, 1998. No comments were received.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: December 14, 1998.

Ralph DeStefano,

Acting Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 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).

2. Section 52.247–48 is revised to read as follows:

52.247–48 F.o.b. Destination—Evidence of Shipment.

As prescribed in 47.305–4(c), insert the following clause:

F.o.b. Destination—Evidence of Shipment (Feb 1999)

(a) If this contract is awarded on a free on board (f.o.b.) destination basis, the Contractor—

(1) Shall not submit an invoice for payment until the supplies covered by the invoice have been shipped to the destination; and

(2) Shall retain, and make available to the Government for review as necessary, the following evidence of shipment documentation for a period of 3 years after final payment under the contract:

(i) If transportation is accomplished by common carrier, a signed copy of the commercial bill of lading for the supplies covered by the Contractor's invoice, indicating the carrier's intent to ship the supplies to the destination specified in the contract.

(ii) If transportation is accomplished by parcel post, a copy of the certificate of mailing.

(iii) If transportation is accomplished by other than common carrier or parcel post, a copy of the delivery document showing receipt at the destination specified in the contract.

(b) The Contractor is not required to submit evidence of shipment documentation with its invoice.

(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 19, 32, 37, 42, 52, and 53

[FAC 97–10; Item X]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Technical amendments.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755.

List of Subjects in 48 CFR Parts 1, 19, 32, 37, 42, 52, and 53

Government procurement.

Dated: December 14, 1998.

Ralph DeStefano,

Acting Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 1, 19, 32, 37, 42, 52, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 1, 19, 32, 37, 42, 52, and 53 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. The table in section 1.106 is amended by removing the FAR segment and the corresponding OMB Control Number entry for Part 30; and by adding entry 52.247–48, in numerical order, to read as follows:

1.106 OMB Approval under the Paperwork Reduction Act.

* * * * *

	FAR segment	OMB Control No.
52.247–48	9000–0061
* * * * *		

PART 19—SMALL BUSINESS PROGRAMS

3. Section 19.102(g) is amended in the tables by revising the parentheticals following “DIVISION F—WHOLESALE TRADE” and “DIVISION G—RETAIL TRADE” to read as follows:

19.102 Size standards.

* * * * *

Division F—Wholesale Trade

(The following size standards are not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

* * * * *

Division G—Retail Trade

(The following size standards are not applicable to Government procurement of supplies. The nonmanufacturer size standard of 500 employees shall be used for purposes of Government procurement of supplies.)

* * * * *

19.502–5 [Amended]

4. Section 19.502–5 is amended in paragraph (e) by revising the word “contract” to read “acquisition”.

PART 32—CONTRACTING FINANCING

32.908 [Amended]

5. Section 32.908 is amended in paragraph (a)(3) by revising “(iii)” to read “(ii)”, and in paragraph (c)(3) by revising the word “paragraph” to read “paragraphs”; and inserting “and (ii)” after “(a)(1)(i)”.

PART 37—SERVICE CONTRACTING

37.602–3 [Amended]

6. Section 37.602–3 is amended by revising “15.605” to read “15.304”.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.203 [Amended]

6A. Section 42.203 is amended in the last sentence by revising “http://www.dcmc.dcrb.dla.mil” to read “http://www.dcmc.hq.dla.mil/casbook/casbook.htm”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–5 [Amended]

7. Section 52.212–5 is amended by revising the date of the clause to read “(Jan 1999)”; in paragraph (b)(5) by revising “Limitation” to read