

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

(End of clause)

12. Sections 52.232-35, 52.232-36, 52.232-37, and 52.232-38 are added to read as follows:

52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.

As prescribed in 32.1110(c), insert the following clause:

Designation of Office for Government Receipt of Electronic Funds Transfer Information (May 1999)

(a) As provided in paragraph (b) of the clause at 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information, and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office, or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) Designated Office:
Name:

Mailing Address:

Telephone Number:

Person to Contact:

Electronic Address:

(End of clause)

52.232-36 Payment by Third Party.

As prescribed in 32.1110(d), insert the following clause:

Payment by Third Party (May 1999)

(a) *General.* The Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the Government, in accordance with the terms of this clause. The third party and, if applicable, the particular Governmentwide commercial purchase card to be used are identified elsewhere in this contract.

(b) *Contractor payment request.* In accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor, the Contractor shall make such payment requests through a charge to the Government account with the third party, at the time and for the amount due in accordance with the terms of this contract.

(c) *Payment.* The Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party under this clause are not payments made by the Government and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) *Documentation.* Documentation of each charge against the Government's account shall be provided to the Contracting Officer upon request.

(e) *Assignment of claims.* Notwithstanding any other provision of this contract, if any payment is made under this clause, then no payment under this contract shall be assigned under the provisions of the assignment of claims terms of this contract or the Assignment of Claims Act of 1940, as amended, 31 U.S.C. 3727, 41 U.S.C. 15.

(f) *Other payment terms.* The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided in the third party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

(End of clause)

52.232-37 Multiple Payment Arrangements.

As prescribed in 32.1110(e), insert the following clause:

Multiple Payment Arrangements (May 1999)

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated—

(a) Elsewhere in this contract or agreement; or

(b) In individual orders placed under this contract or agreement.

(End of clause)

52.232-38 Submission of Electronic Funds Transfer Information with Offer.

As prescribed in 32.1110(g), insert the following provision:

Submission of Electronic Funds Transfer Information With Offer (May 1999)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer

(EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the clause at 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration.

(1) The solicitation number (or other procurement identification number).

(2) The offeror's name and remittance address, as stated in the offer.

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.

(5) The offeror's account number and the type of account (checking, savings, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror's financial agent.

(7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the offeror's financial agent is not directly on-line to the Fedwire and, therefore, not the receiver of the wire transfer payment.

(End of provision)

[FR Doc. 99-5206 Filed 3-3-99; 8:45 am]

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Part 15

[FAC 97-11; FAR Case 98-302; Item V]

RIN 9000-AI31

Federal Acquisition Regulation; Waiver of Cost or Pricing Data for Subcontracts

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 Section 805 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105-261).

EFFECTIVE DATE: May 3, 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 Mr. Ralph De Stefano, Procurement Analyst, at (202) 501-1758. Please cite FAC 97-11, FAR case 98-302.

SUPPLEMENTARY INFORMATION:

A. Background

Section 805 of Public Law 105-261 clarifies that waivers of requirements for submittal of prime contractor cost or pricing data do not automatically waive requirements for subcontractors to submit cost or pricing data. Although this is consistent with the current requirements of FAR 15.403-1(c)(4), the final rule clarifies the requirement to provide rationale supporting any waiver of subcontractors.

Pursuant to the House of Representatives Conference Report (H.R. Conf. Rep. No. 736, 105th Cong., 2nd Sess. 1998) which addresses Section 805, the executive branch is working to clarify situations in which an exceptional circumstance waiver of requirements for submission of certified cost or pricing data may be granted. This will be the subject of an independent FAR case.

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 final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 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 97-11, FAR case 98-302), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that 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 15

Government procurement.

Dated: February 25, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 15 is amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 15 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 15.403-1 is amended by revising paragraph (c)(4) to read as follows:

15.403-1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

* * * * *

(c) * * *

(4) *Waivers.* The head of the contracting activity (HCA) may, without power of delegation, waive the requirement for submission of cost or pricing data in exceptional cases. The authorization for the waiver and the supporting rationale shall be in writing. The HCA may consider waiving the requirement if the price can be determined to be fair and reasonable without submission of cost or pricing data. For example, if cost or pricing data were furnished on previous production buys and the contracting officer determines such data are sufficient, when combined with updated information, a waiver may be granted. If the HCA has waived the requirement for submission of cost or pricing data, the contractor or higher-tier subcontractor to whom the waiver relates shall be considered as having been required to provide cost or pricing data. Consequently, award of any lower-tier subcontract expected to exceed the cost or pricing data threshold requires the submission of cost or pricing data unless—

(i) An exception otherwise applies to the subcontract; or

(ii) The waiver specifically includes the subcontract and the rationale supporting the waiver for that subcontract.

[FR Doc. 99-5207 Filed 3-3-99; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22 and 52

[FAC 97-11; FAR Case 94-610; Item VI]

RIN 9000-AH62

Federal Acquisition Regulation; Executive Order 12933, Nondisplacement of Qualified Workers Under Certain Contracts

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 Executive Order 12933, Nondisplacement of Qualified Workers under Certain Contracts, signed by the President on October 20, 1994 (59 FR 53559, October 24, 1994). The Executive Order requires that workers on certain building service contracts be given the right of first refusal for employment with the successor contractor, if the workers would otherwise lose their jobs as a result of the termination of the contract.

An interim rule for this FAR case was published in the **Federal Register** at 62 FR 44823, August 22, 1997, as Item XII of Federal Acquisition Circular 97-01. This final rule amends the definition of "building service contract" in FAR 22.1202, and provides guidance regarding the quality of work performed on predecessor contracts and disputes resolution in the clause at 52.222-50.

EFFECTIVE DATE: May 3, 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 Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-11, FAR case 94-610.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12933 was signed October 20, 1994, by President Clinton and published in the **Federal Register** on October 24, 1994 (59 FR 53559). To obtain public input and assist in the