

increase the dollar threshold for full CAS coverage from \$25 million to \$50 million; and

- Revises the CAS waiver procedures and conditions at FAR 30.201–5, as required by Section 802 of Pub. L. 106–65.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule 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 contracts and subcontracts with small businesses are exempt from all CAS requirements in accordance with 48 CFR 9903.201–1(b)(3).

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 Parts 30 and 52

Government procurement.

Dated: December 22, 2000.

Al Matera,

Acting Director, Federal Acquisition Policy Division

Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR parts 30 and 52, which was published in the **Federal Register** at 65 FR 36028, June 6, 2000, 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. 01–12 Filed 1–9–01; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

[FAC 97–22; FAR Case 1999–016; Item III]

RIN 9000–AI74

Federal Acquisition Regulation; Advance Payments for Non- Commercial Items

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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to permit federally insured credit unions to participate in the maintenance of special accounts for advance payments.

DATE: Effective Date: March 12, 2001.

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. Jeremy Olson, at (202) 501–4755. Please cite FAC 97–22, FAR case 1999–016.

SUPPLEMENTARY INFORMATION:

A. Background

Prior to publication of this final FAR rule, FAR Subpart 32.4, Advance Payments for Non-Commercial Items, required, unless exempted by FAR 32.409–3(e) or (f), that contractors deposit advance payments in special accounts separate from their general or other funds. FAR 32.411 and other FAR text excluded credit unions from participating in the maintenance of these special accounts by requiring that contractors establish these special accounts only at banks that are members of the Federal Reserve System (FRS) or insured by the Federal Deposit Insurance Corporation (FDIC). However, many credit unions are federally insured through the National Credit Union Administration (NCUA). Therefore, these credit unions also are able to provide the Government a measure of security for Federal funds advanced to contractors.

This final rule amends FAR Subpart 32.4 and FAR 52.232–12 to change

certain terminology (*e.g.*, change the word “bank” to “financial institution”) to provide contractors an additional option of depositing advance payments in special accounts maintained by credit unions that are federally insured by NCUA. This revision will foster competition among financial institutions that are in the business of providing special accounts for advance payment funds, without increasing the risk to the Government.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 25614, May 2, 2000. Two respondents submitted public comments on the proposed rule. The Councils considered all comments before agreeing to convert the proposed rule to a final rule without change.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule 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 only applies to the very limited number of contractors that receive advance payments and deposit these payments in special accounts.

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 Parts 32 and 52

Government procurement.

Dated: December 22, 2000.

Al Matera,

Acting Director, Federal Acquisition Policy Division

Therefore, DoD, GSA, and NASA amend 48 CFR parts 32 and 52 as set forth below:

1. The authority citation for 48 CFR parts 32 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).

special account with the _____ [insert the name of the financial institution]. None of the funds in the special account shall be mingled with other funds of the Contractor. Withdrawals from the special account may be made only by check of the Contractor countersigned by the Contracting Officer or a Government countersigning agent designated in writing by the Contracting Officer.

* * * * *

(f) * * *

(3) If interest is required under the contract, the Contracting Officer shall determine a daily interest rate based on the higher of (i) the published prime rate of the financial institution (depository) in which the special account is established or (ii) the rate established by the Secretary of the Treasury under Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)). The Contracting Officer shall revise the daily interest rate during the contract period in keeping with any changes in the cited interest rates.

* * * * *

(g) *Financial institution agreement.* Before an advance payment is made under this contract, the Contractor shall transmit to the administering office, in the form prescribed by the administering office, an agreement in triplicate from the financial institution in which the special account is established, clearly setting forth the special character of the account and the responsibilities of the financial institution under the account. The Contractor shall select a financial institution that is a member bank of the Federal Reserve System, an "insured" bank within the meaning of the Federal Deposit Insurance Corporation Act (12 U.S.C. 1811), or a credit union insured by the National Credit Union Administration.

* * * * *

(p) * * *

(11) Deposit any of its funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation or a credit union insured by the National Credit Union Administration;

* * * * *

Advance Payments Without Special Account (Mar 2001)

* * * * *

(m) * * *

(11) Deposit any of its funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation or a credit union insured by the National Credit Union Administration;

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[FR Doc. 01-13 Filed 1-9-01; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 97-22; FAR Case 1999-021; Item IV]

RIN 9000-AJ05

Federal Acquisition Regulation; Part 12 and Assignment of Claims

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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to add, in the contract clause addressing terms and conditions for commercial items, the prohibition for a contractor to assign its rights to receive payment in accordance with the Assignment of Claims Act (31 U.S.C. 3727) when a third party makes payment under the contract (e.g., use of the Governmentwide commercial purchase card). This prohibition is currently in the contract clause addressing terms and conditions required to implement statutes or Executive orders for commercial items.

DATES: *Effective Date:* March 12, 2001.

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 FAC 97-22, FAR case 1999-021.

SUPPLEMENTARY INFORMATION:

A. Background

Paragraph (e) of the clause at FAR 52.232-36, Payment by Third Party, states that a contractor may not assign its rights to receive payment under the assignment of claims terms of the contract if payment is made by a third party (e.g., use of the Governmentwide commercial purchase card). This clause is included in paragraph (b)(25) of the clause at FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

Paragraph (b) of the clause at FAR 52.212-4, Contract Terms and Conditions—Commercial Items, states

that a contractor may assign its rights to receive payments due as a result of performance of the contract, but paragraph (b) does not include the prohibition against the assignment of claims if payment is made by a third party (e.g., use of the Governmentwide commercial purchase card). FAR 12.302(b) further states that the contracting officer shall not tailor FAR 52.212-4(b).

The purpose of this rule is to correct the inconsistency between FAR 52.212-4(b) and FAR 52.212-5(b)(25). The rule revises FAR 52.212-4(b) to add the prohibition against the assignment of claims when payment is made by a third party.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule 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, the Councils will consider comments from small entities concerning the affected FAR part 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-22, FAR case 1999-021), 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 52

Government procurement.

Dated: December 22, 2000.

Al Matera,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 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. Amend section 52.212-4 by revising the date of the clause and paragraph (b) to read as follows: