
Monday
June 22, 1998

48 CFR

Part III

**Department of
Defense
General Services
Administration
National Aeronautics
and Space
Administration**

**48 CFR Chapter 1
Federal Acquisition Regulation (FAR);
Final Rule**

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 97-05; Introduction

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

ACTION: Summary presentation of final and interim rules, and technical amendments and corrections.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules issued by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 97-05. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, may be located on the Internet at <http://www.arnet.gov/far>.

DATES: For effective dates and comment dates, see separate documents which follow.

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 the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 97-05 and specific FAR case number(s). Interested parties may also visit our website at <http://www.arnet.gov/far>.

Item	Subject	FAR case	Analyst
I	Subcontract Consent	95-011	Klein.
II	Availability of Specifications	97-034	DeStefano.
III	Liquidated Damages	89-042/97-300	Moss.
IV	Limits on Fee for Cost-Plus-Incentive-Fee and Cost-Plus-Award-Fee Contracts	97-042	DeStefano.
V	Rehabilitation Act, Workers With Disabilities (Interim)	96-610	O'Neill.
VI	Trade Agreements Thresholds	97-044	Linfield.
VII	Restrictions on Purchases from Sudan	97-301	Linfield.
VIII	Software Copyrights	97-614	O'Neill.
IX	Travel Reimbursement	97-007	Nelson.
X	No-Cost Value Engineering Change Proposals (Interim)	96-011	Klein.
XI	Technical Amendments.		
XII	Availability of FAR via Internet.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 97-05 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I—Subcontract Consent (FAR Case 95-011)

This final rule amends FAR Parts 4, 22, 35, 36, 44, and 52 to reduce requirements for consent to subcontract. The rule eliminates consent requirements for contractors that have an approved purchasing system, except when specific contracts requiring consent are identified by the contracting officer; eliminates consent requirements for fixed-price incentive contracts and fixed-price redeterminable contracts; and increases, to the simplified acquisition threshold, the dollar level at which consent requirements are included in time-and-materials, labor-hour, and letter contracts.

Item II—Availability of Specifications (FAR Case 97-034)

This final rule amends FAR Parts 9 and 11 and the provisions at 52.211-1, 52.211-2, and 52.212-1 to update addresses and other information regarding the availability of

specifications, standards, and item descriptions that may be cited in Government solicitations and contracts. In addition, the rule clarifies the pricing policy regarding specifications, standards, and commercial item descriptions issued by GSA.

Item III—Liquidated Damages (FAR Cases 89-042 and 97-300)

This final rule amends FAR Parts 11, 19, 52, and 53 to clarify policy on liquidated damages and commercial subcontracting plans pertaining to requirements for subcontracting with small, small disadvantaged, and women-owned small business concerns. The rule implements Section 304 of the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) and OFPP Policy Letter 95-1, Subcontracting Plans for Companies Supplying Commercial Items. The interim rule published in FAC 84-50, FAR case 89-042, 54 FR 30708, July 21, 1989, has been merged with this final rule.

Item IV—Limits on Fee for Cost-Plus-Incentive-Fee and Cost-Plus-Award-Fee Contracts (FAR Case 97-042)

This final rule amends FAR Part 16 to clarify fee limitations pertaining to cost-reimbursement contracts. The FAR Part 15 rewrite in FAC 97-02 eliminated non-statutory fee limitations for cost-

plus-incentive-fee and cost-plus-award-fee contracts. This final rule makes conforming changes to FAR Part 16.

Item V—Rehabilitation Act, Workers With Disabilities (FAR Case 96-610)

This interim rule amends FAR Subpart 22.14 and the clauses at 52.212-5 and 52.222-36 to implement revised Department of Labor regulations regarding affirmative action to employ and advance in employment qualified individuals with disabilities. The dollar threshold for use of the clause at 52.222-36 has been increased from \$2,500 to \$10,000.

Item VI—Trade Agreements Thresholds (FAR Case 97-044)

This final rule amends FAR Part 25 to implement revised thresholds for application of the Trade Agreements Act and the North American Free Trade Agreement, as published by the Office of the United States Trade Representative in the **Federal Register** on January 14, 1998 (63 FR 2295).

Item VII—Restrictions on Purchases from Sudan (FAR Case 97-301)

This final rule amends FAR 25.701 and the clause at 52.225-11 to add Sudan to the list of countries whose products are banned from importation into the United States. This rule implements Executive Order 13067, dated November 3, 1997.

Item VIII—Software Copyrights (FAR Case 97-614)

This final rule amends FAR 27.405 to add contracts for certain computer software programs to the list of examples of contracts for special works to which the Government may obtain copyrights.

Item IX—Travel Reimbursement (FAR Case 97-007)

The interim rule published as Item IX of FAC 97-03 is converted to a final rule without change. The rule amends FAR 31.205-46 to increase from \$25.00 to \$75.00 the threshold at which contractor personnel must provide a receipt to support travel expenditures.

Item X—No-Cost Value Engineering Change Proposals (FAR Case 96-011)

This interim rule revises FAR 48.104-3 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.

Item XI—Technical Amendments

Amendments are being made at FAR 5.201(b)(2), 8.404(a), 31.002, and 45.607-2(b) to update references and make editorial changes.

Item XII—Availability of FAR via Internet

The FAR, along with Federal Acquisition Circulars and other informational items, is available on the Internet at <http://www.arnet.gov/far>.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division,
June 22, 1998.

Federal Acquisition Circular (FAC) 97-05 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 97-05 are effective August 21, 1998, except for Items V, X, and XI, which are effective June 22, 1998.

Dated: June 11, 1998.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: June 11, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: June 10, 1998.

Tom Luedtke,

Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 98-16111 Filed 6-19-98; 8:45 am]

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DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 4, 22, 35, 36, 44, and 52**

[FAC 97-05; FAR Case 95-011; Item I]

RIN 9000-AH57

Federal Acquisition Regulation; Subcontract Consent

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 reduce requirements for consent to subcontract. The rule eliminates the consent requirements for contractors that have an approved purchasing system, except when specific subcontracts requiring consent are identified by the contracting officer; eliminates consent requirements for fixed-price incentive contracts and fixed-price redeterminable contracts; and increases, to the simplified acquisition threshold, the dollar level at which consent requirements are included in time-and-materials, labor-hour, and letter contracts. 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.

EFFECTIVE DATE: August 21, 1998.

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 97-05, FAR case 95-011.

SUPPLEMENTARY INFORMATION:**A. Background**

A proposed rule was published in the **Federal Register** on April 21, 1997 (62 FR 19465). Comments were received from nine respondents. All comments were considered in the development of this final rule.

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 consent to subcontract requirement has a very small administrative cost that is passed along to the Government as part of the contract price, and this rule reduces the requirement for consent to subcontract.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of the information collection requirements was submitted to the Office of Management and Budget (OMB) and approved through June 30, 2000, under OMB Control Number 9000-0149. Public comments concerning this request were invited through **Federal Register** notice 62 FR 19465, April 21, 1997, and no comments were received.

List of Subjects in 48 CFR Parts 4, 22, 35, 36, 44, and 52

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 4, 22, 35, 36, 44, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4, 22, 35, 6, 44, 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 4—ADMINISTRATIVE MATTERS**4.705-3 [Amended]**

2. Section 4.705-3 is amended in paragraph (f) by revising the parenthetical to read "(see 52.244-2)".

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**22.810 [Amended]**

3. Section 22.810 is amended in paragraph (g) by removing the phrase "paragraph (a), (b), or (c) of 44.204" and adding in its place "44.204(a)".

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

4. Section 35.009 is amended by revising the last sentence to read as follows:

35.009 Subcontracting research and development effort.

* * * The clause at 52.244-2, Subcontracts, prescribed for certain types of contracts at 44.204(a), requires the contracting officer's prior approval for the placement of certain subcontracts.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

5. Section 36.606 is amended by revising paragraph (e) to read as follows:

36.606 Negotiations.

* * * * *

(e) Because selection of firms is based upon qualifications, the extent of any subcontracting is an important negotiation topic. The clause prescribed at 44.204(b), Subcontractors and Outside Associates and Consultants (Architect-Engineer Services) (see 52.244-4), limits a firm's subcontracting to firms agreed upon during negotiations.

* * * * *

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

6. Section 44.000 is revised to read as follows:

44.000 Scope of part.

(a) This part prescribes policies and procedures for consent to subcontracts or advance notification of subcontracts, and for review, evaluation, and approval of contractors' purchasing systems.

(b) The consent and advance notification requirements of subpart 44.2 are not applicable to prime contracts for commercial items acquired pursuant to part 12.

44.102 [Removed]

7. Section 44.102 is removed.

44.201 Consent and advance notification requirements.

8. The heading of section 44.201 is revised to read as set forth above.

9. Sections 44.201-1 and 44.201-2 are revised to read as follows:

44.201-1 Consent requirements.

(a) If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in the subcontracts clause of the contract. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services. Subcontracts may be identified by subcontract number or by class of items (e.g., subcontracts for engines on a prime contract for airframes).

(b) If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions (including unpriced modifications and unpriced delivery orders) under fixed-price contracts that exceed the simplified acquisition threshold, for—

(1) Cost-reimbursement, time-and-materials, or labor-hour subcontracts; and

(2) Fixed-price subcontracts that exceed—

(i) For the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For civilian agencies other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(c) Consent may be required for subcontracts under prime contracts for architect-engineer services.

(d) The contracting officer's written authorization for the contractor to purchase from Government sources (see part 51) constitutes consent.

44.201-2 Advance notification requirements.

Under cost-reimbursement contracts, even if the contractor has an approved

purchasing system and consent to subcontract is not required under 44.201-1, the contractor is required by statute (10 U.S.C. 2306(e) or 41 U.S.C. 254(b)) to notify the agency before the award of—

(a) Any cost-plus-fixed-fee subcontract; or

(b) Any fixed-price subcontract that exceeds—

(1) For the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(2) For civilian agencies other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

44.201-3 and 44.201-4 [Removed]

10. Sections 44.201-3 and 44.201-4 are removed.

11. Section 44.202-1 is amended by revising paragraphs (b) and (c) to read as follows:

44.202-1 Responsibilities.

* * * * *

(b) The contracting officer responsible for consent shall review the contractor's notification and supporting data to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment.

(c) Designation of specific subcontractors during contract negotiations does not in itself satisfy the requirements for advance notification or consent pursuant to the clause at 52.244-2. However, if, in the opinion of the contracting officer, the advance notification or consent requirements were satisfied for certain subcontracts evaluated during negotiations, the contracting officer shall identify those subcontracts in paragraph (k) of the clause at 52.244-2.

44.202-2 [Amended]

12. Section 44.202-2 is amended in the introductory text of paragraph (a) by adding ", at a minimum," after the word "shall".

13. Section 44.204 is revised to read as follows:

44.204 Contract clauses.

(a)(1) The contracting officer shall insert the clause at 52.244-2, Subcontracts, in solicitations and contracts when contemplating—

(i) A cost-reimbursement contract;

(ii) A letter contract that exceeds the simplified acquisition threshold;

(iii) A fixed-price contract that exceeds the simplified acquisition threshold under which unpriced contract actions (including unpriced modifications or unpriced delivery orders) are anticipated;

(iv) A time-and-materials contract that exceeds the simplified acquisition threshold; or

(v) A labor-hour contract that exceeds the simplified acquisition threshold.

(2) If a cost-reimbursement contract is contemplated—

(i) For the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration, the contracting officer shall use the clause with its Alternate I; or

(ii) For civilian agencies other than the Coast Guard and the National Aeronautics and Space Administration, the contracting officer shall use the clause with its Alternate II.

(3) Use of this clause is not required in—

(i) Fixed-price architect-engineer contracts; or

(ii) Contracts for mortuary services, refuse services, or shipment and storage of personal property, when an agency-prescribed clause on approval of subcontractors' facilities is required.

(b) The contracting officer may insert the clause at 52.244-4, Subcontractors and Outside Associates and Consultants (Architect-Engineer Services), in fixed-price architect-engineer contracts.

(c) The contracting officer shall, when contracting by negotiation, insert the clause at 52.244-5, Competition in Subcontracting, in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold, unless—

(1) A firm-fixed-price contract, awarded on the basis of adequate price competition or whose prices are set by law or regulation, is contemplated; or

(2) A time-and-materials, labor-hour, or architect-engineer contract is contemplated.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.244-1 [Removed and Reserved]

14. Section 52.244-1 is removed and reserved.

15. Section 52.244-2 is revised to read as follows:

52.244-2 Subcontracts.

As prescribed in 44.204(a)(1), insert the following clause:

SUBCONTRACTS (AUG 1998)

(a) *Definitions.* As used in this clause—

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with

Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(f)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) of this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination—

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(End of clause)

Alternate I (Aug 1998). As prescribed in 44.204(a)(2)(i), substitute the following paragraph (f)(2) for paragraph (f)(2) of the basic clause:

(f)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

Alternate II (Aug 1998). As prescribed in 44.204(a)(2)(ii), substitute the following paragraph (f)(2) for paragraph (f)(2) of the basic clause:

(f)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

52.244-3 [Removed and reserved]

16. Section 52.244-3 is removed and reserved.

17. Section 52.244-4 is amended by revising the section heading, introductory paragraph, and clause heading and date to read as follows:

52.244-4 Subcontractors and outside associates and consultants (Architect-engineer services).

As prescribed in 44.204(b), insert the following clause:

SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND CONSULTANTS (ARCHITECT-ENGINEER SERVICES) (AUG 1998)

* * * * *

(End of clause)

52.244-5 [Amended]

18. Section 52.244-5 is amended in the introductory paragraph by revising "44.204(e)" to read "44.204(c)".

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 11, and 52

[FAC 97-05; FAR Case 97-034; Item II]

RIN 9000-A100

Federal Acquisition Regulation; Availability of Specifications

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 update information regarding the availability of specifications, standards, and item descriptions cited in Government solicitations and contracts. 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.

EFFECTIVE DATE: August 21, 1998.

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 DeStefano, Procurement Analyst, at (202) 501-1758. Please cite FAC 97-05, FAR case 97-034.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Parts 9 and 11 and the provisions at 52.211-1, 52.211-2, and 52.212-1 to update information regarding the availability of specifications, standards, and item descriptions that may be cited in Government solicitations and contracts. New organization names, addresses, and telephone numbers, and a new method of obtaining information on the World Wide Web have been added. In addition, the rule clarifies the pricing policy regarding specifications, standards, and commercial item descriptions issued by GSA.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-

577, and publication for public comments is not required. However, comments from small entities concerning the affected FAR subparts 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 97-05, FAR case 97-034), in correspondence.

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 9, 11, and 52

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 9, 11, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 9, 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 9—CONTRACTOR QUALIFICATIONS

2. Section 9.203 is amended by revising paragraphs (c)(1) and (d) to read as follows:

9.203 QPL's, QML's, and QBL's.

* * * * *

(c) * * *

(1) Federal Standardization Manual, FSPM-0001.

* * * * *

(d) The publications listed in paragraphs (b) and (c) of this section are sold to the public. The publications in paragraphs (b)(1) and (c)(1) of this section may be obtained from the addressee in 11.201(d)(1). The publications in paragraphs (b)(2) and (c)(2) of this section may be obtained from the addressee in 11.201(d)(2).

PART 11—DESCRIBING AGENCY NEEDS

3. Section 11.102 is revised to read as follows:

11.102 Standardization program.

Agencies shall select existing requirements documents or develop new requirements documents that meet the needs of the agency in accordance

with the guidance contained in the Federal Standardization Manual, FSPM-0001, and, for DoD components, DoD 4120.3-M, Defense Standardization Program Policies and Procedures. The Federal Standardization Manual may be obtained from the General Services Administration (see address in 11.201(d)(1)). DoD 4120.3-M may be obtained from DoD (see address in 11.201(d)(2)).

4. Section 11.201 is amended by revising paragraph (d) and the first sentence of paragraph (e) to read as follows:

11.201 Identification and availability of specifications.

* * * * *

(d)(1) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, may be purchased from the—General Services Administration, Federal Supply Service, Specifications Section, Suite 8100, 470 East L'Enfant Plaza, SW, Washington, DC 20407, Telephone (202) 619-8925.

(2) The DoDISS may be purchased from the—Department of Defense Single Stock Point (DoDSSP), Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179.

(e) Agencies may generally obtain from the GSA Specifications Section or DoDSSP those nongovernment (voluntary) standards adopted for use by Federal or Defense activities. * * *

5. Section 11.204 is amended by revising paragraphs (a) and (b) to read as follows:

11.204 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 52.211-1, Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, in solicitations that cite specifications listed in the Index that are not furnished with the solicitation.

(b) The contracting officer shall insert the provision at 52.211-2, Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L, in solicitations that cite specifications listed in the DoDISS or

DoD 5010.12-L that are not furnished with the solicitation.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Sections 52.211-1 and 52.211-2 are revised to read as follows:

52.211-1 Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29.

As prescribed in 11.204(a), insert the following provision:

AVAILABILITY OF SPECIFICATIONS LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPTIONS, FPMR PART 101-29 (AUG 1998)

(a) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—GSA Federal Supply Service, Specifications Section, Suite 8100, 470 East L'Enfant Plaza, SW, Washington, DC 20407, Telephone (202) 619-8925, Facsimile (202) 619-8978.

(b) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (a) of this provision. Additional copies will be issued for a fee.

(End of provision)

52.211-2 Availability of Specifications Listed in the DoD Index of Specifications and Standards (DoDISS) and Descriptions Listed in the Acquisition Management Systems and Data Requirements Control List, DoD 5010.12-L.

As prescribed in 11.204(b), insert the following provision:

AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (AUG 1998)

(a) Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained for a fee by submitting a request to the—Department of Defense Single Stock Point (DoDSSP), Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone

(215) 697-2667/2179, Facsimile (215) 697-1462.

(b) Order forms, pricing information, and customer support information may be obtained—

(1) By telephone at (215) 697-2667/2179; or

(2) Through the DoDSSP Internet site at <http://www.dodssp.daps.mil>.

(End of provision)

7. Section 52.212-1 is amended by revising the date of the provision and paragraph (i) to read as follows:

52.212-1 Instructions to Offerors—Commercial Items.

* * * * *

INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (AUG 1998)

* * * * *

(i) *Availability of requirements documents cited in the solicitation.* (1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—GSA Federal Supply Service Specifications Section, Suite 8100, 470 East L'Enfant Plaza, SW, Washington, DC 20407, Telephone (202) 619-8925, Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the—Department of Defense Single Stock Point (DoDSSP), Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(i) Automatic distribution may be obtained on a subscription basis.

(ii) Order forms, pricing information, and customer support information may be obtained—

(A) By telephone at (215) 697-2667/2179; or

(B) Through the DoDSSP Internet site at <http://www.dodssp.daps.mil>.

(3) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

* * * * *

(End of provision)

[FR Doc. 98-16113 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 11, 19, 52, and 53**

[FAC 97-05; FAR Cases 89-042 and 97-300; Item III]

RINs 9000-AD20 and 9000-AH53

**Federal Acquisition Regulation;
Liquidated Damages**

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

ACTION: Proposed and interim rules adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the proposed and interim rules to final with changes. This final rule amends the Federal Acquisition Regulation (FAR) to clarify policy on liquidated damages and commercial subcontracting plans and to implement OFPP Policy Letter 95-1, Subcontracting Plans for Companies Supplying Commercial Items. The interim rule published as FAR case 89-042 at 54 FR 30708, July 21, 1989, has been merged with this 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.

EFFECTIVE DATE: August 21, 1998.

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 97-05, FAR case 97-300.

SUPPLEMENTARY INFORMATION:**A. Background**

An interim rule, under FAR Case 89-042 (Liquidated Damages), was published on July 21, 1989 (54 FR 30708), to require a prime contractor to pay liquidated damages upon a finding of a lack of good faith effort to meet small business subcontracting goals. The rule implemented Section 304 of the Business Opportunity Development Reform Act of 1988, Pub. L. 100-656. The interim rule is hereby adopted as

final with changes and merged with this final rule.

A proposed rule containing revisions to the interim rule was published on April 11, 1997 (62 FR 17960). The revisions in the proposed rule resulted from the public comments received on the interim rule, and from the requirements of OFPP Policy Letter 95-1, Subcontracting Plans for Companies Supplying Commercial Items.

Eight sources submitted comments in response to the proposed rule. All comments were considered in developing this final rule.

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 small business concerns are exempt from subcontracting plan requirements.

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 11, 19, 52, and 53

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

**Interim Rule Adopted as Final with
Changes**

Accordingly, the interim rule published as FAR Case 89-042 amending 48 CFR Parts 19 and 52, which was published at 54 FR 30708, July 21, 1989, is hereby adopted as final and merged with this final rule with the following changes:

1. The authority citation for 48 CFR Parts 11, 19, 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 11—DESCRIBING AGENCY
NEEDS**

2. Section 11.501 is revised to read as follows:

11.501 General.

This subpart provides policies and procedures for the use of liquidated damages clauses in solicitations and contracts for supplies, services, and construction, except for the Liquidated Damages—Subcontracting Plan clause at 52.219-16, which may be applied pursuant to 19.705-7.

**PART 19—SMALL BUSINESS
PROGRAMS**

3. Section 19.701 is revised to read as follows:

19.701 Definitions.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Failure to make a good faith effort to comply with the subcontracting plan means willful or intentional failure to perform in accordance with the requirements of the subcontracting plan, or willful or intentional action to frustrate the plan.

Individual contract plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master plan means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

Small business subcontractor means any concern that—

(a) In connection with subcontracts of \$10,000 or less, has a number of employees, including its affiliates, that does not exceed 500 persons; and

(b) In connection with subcontracts exceeding \$10,000, has a number of employees or average annual receipts, including its affiliates, that does not exceed the size standard under 19.102 for the product or service it is providing on the subcontract.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Government prime contractor or subcontractor calling for supplies and/or services required for performance of the contract, contract modification, or subcontract.

4. Section 19.702 is amended by revising paragraph (a) introductory text,

the first sentences of (a)(1) and (a)(2); and paragraph (b)(4) to read as follows:

19.702 Statutory requirements.

* * * * *

(a) Except as stated in paragraph (b) of this section, Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) imposes the following requirements regarding subcontracting with small businesses and small business subcontracting plans:

(1) In negotiated acquisitions, each solicitation of offers to perform a contract or contract modification, that individually is expected to exceed \$500,000 (\$1,000,000 for construction) and that has subcontracting possibilities, shall require the apparently successful offeror to submit an acceptable subcontracting plan.

* * *

(2) In sealed bidding acquisitions, each invitation for bids to perform a contract or contract modification, that individually is expected to exceed \$500,000 (\$1,000,000 for construction) and that has subcontracting possibilities, shall require the bidder selected for award to submit a subcontracting plan. * * *

(b) * * *

(4) For modifications to contracts within the general scope of the contract that do not contain the clause at 52.219-8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (or equivalent prior clauses, e.g., contracts awarded before the enactment of Pub. L. 95-507).

* * * * *

5. Section 19.703 is amended in paragraph (a)(2) by removing "13 CFR 124.601-124.610" and inserting in its place "13 CFR 124.601 through 124.610"; and in paragraph (b) by revising the first sentence to read as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(b) A contractor acting in good faith may rely on the written representation of its subcontractor regarding the subcontractor's status as a small business concern, a small disadvantaged business concern, or a women-owned small business concern. * * *

6. Section 19.704 is amended—

(a) By redesignating paragraphs (a)(2) through (a)(6) as (a)(7) through (a)(11), respectively, and adding new paragraphs (a)(2) through (a)(6);

(b) In newly designated (a)(8) by removing the word "will" the second time it appears;

(c) By revising newly designated paragraphs (a)(9), (10) and (11), the first sentence of paragraph (b), and (c); and (d) By adding paragraph (d). The revised and added text reads as follows:

19.704 Subcontracting plan requirements.

(a) * * *

(2) A statement of the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small, small disadvantaged and women-owned small business concerns;

(3) A description of the principal types of supplies and services to be subcontracted and an identification of the types planned for subcontracting to small, small disadvantaged and women-owned small business concerns;

(4) A description of the method used to develop the subcontracting goals;

(5) A description of the method used to identify potential sources for solicitation purposes;

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with small, small disadvantaged and women-owned small business concerns;

* * * * *

(9) Assurances that the offeror will include the clause at 52.219-8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (see 19.708(a)), in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction) to adopt a plan that complies with the requirements of the clause at 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (see 19.708(b));

(10) Assurances that the offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and SF 295, Summary Subcontract Report, following the instructions on the forms or as provided in agency regulations; and

(iv) Ensure that its subcontractors agree to submit SF 294 and SF 295; and

(11) A description of the types of records that will be maintained concerning procedures adopted to

comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small, small disadvantaged and women-owned small business concerns and to award subcontracts to them.

(b) Contractors may establish, on a plant or division-wide basis, a master plan (see 19.701) that contains all the elements required by the clause at 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, except goals.

* * *

(c) For multiyear contracts or contracts containing options, the cumulative value of the basic contract and all options is considered in determining whether a subcontracting plan is necessary (see 19.705-2(a)). If a plan is necessary and the offeror is submitting an individual contract plan, the plan shall contain all the elements required by paragraph (a) of this section and shall contain separate statements and goals for the basic contract and for each option.

(d) A commercial plan (as defined in 19.701) is the preferred type of subcontracting plan for contractors furnishing commercial items. The contractor shall—

(1) Submit the commercial plan to either the first contracting officer awarding a contract subject to the plan during the contractor's fiscal year, or, if the contractor has ongoing contracts with commercial plans, to the contracting officer responsible for the contract with the latest completion date. The contracting officer shall negotiate the commercial plan for the Government. The approved commercial plan shall remain in effect during the contractor's fiscal year for all Government contracts in effect during that period; and

(2) Submit a new commercial plan, 30 working days before the end of the fiscal year, to the contracting officer responsible for the uncompleted Government contract with the latest completion date. The contractor must provide to each contracting officer responsible for an ongoing contract subject to the plan, the identity of the contracting officer that will be negotiating the new plan. When the new commercial plan is approved, the contractor shall provide a copy of the approved plan to each contracting officer responsible for an ongoing contract that is subject to the plan.

19.705-1 [Amended]

7. Section 19.705-1 is amended in the first sentence by removing "award fee" and inserting "award-fee" in its place.

8. Section 19.705-4 is amended—
 (a) By revising the first and second sentences of paragraph (b);
 (b) By revising paragraph (c);
 (c) By revising paragraph (d)(1); and
 (d) By redesignating paragraphs (d)(3) through (d)(6) as (d)(4) through (d)(7), respectively, and adding a new paragraph (d)(3); and by revising newly designated (d)(5). The new and revised text reads as follows:

19.705-4 Reviewing the subcontracting plan.

* * * * *
 (b) If, under a sealed bid solicitation, a bidder submits a plan that does not cover each of the 11 required elements (see 19.704), the contracting officer shall advise the bidder of the deficiency and request submission of a revised plan by a specific date. If the bidder does not submit a plan that incorporates the required elements within the time allotted, the bidder shall be ineligible for award. * * *

(c) In negotiated acquisitions, the contracting officer shall determine whether the plan is acceptable based on the negotiation of each of the 11 elements of the plan (see 19.704). Subcontracting goals should be set at a level that the parties reasonably expect can result from the offeror expending good faith efforts to use small, small disadvantaged, and women-owned small business subcontractors to the maximum practicable extent. The contracting officer shall take particular care to ensure that the offeror has not submitted unreasonably low goals to minimize exposure to liquidated damages and to avoid the administrative burden of substantiating good faith efforts. Additionally, particular attention should be paid to the identification of steps that, if taken, would be considered a good faith effort. No goal should be negotiated upward if it is apparent that a higher goal will significantly increase the Government's cost or seriously impede the attainment of acquisition objectives. An incentive subcontracting clause (see 52.219-10, Incentive Subcontracting Program), may be used when additional and unique contract effort, such as providing technical assistance, could significantly increase subcontract awards to small, small disadvantaged or women-owned small businesses.

(d) * * *
 (1) Obtain information available from the cognizant contract administration office, as provided for in 19.706(a), and evaluate the offeror's past performance in awarding subcontracts for the same or similar products or services to small, small disadvantaged and women-owned

small business concerns. If information is not available on a specific type of product or service, evaluate the offeror's overall past performance and consider the performance of other contractors on similar efforts.

* * * * *
 (3) Ensure that the subcontracting goals are consistent with the offeror's cost or pricing data or information other than cost or pricing data.

* * * * *
 (5) Evaluate subcontracting potential, considering the offeror's make-or-buy policies or programs, the nature of the supplies or services to be subcontracted, the known availability of small, small disadvantaged and women-owned small business concerns in the geographical area where the work will be performed, and the potential contractor's long-standing contractual relationship with its suppliers.

* * * * *
 9. Section 19.705-6 is amended by revising the introductory text and paragraphs (b) and (g) to read as follows:

19.705-6 Postaward responsibilities of the contracting officer.

After a contract or contract modification containing a subcontracting plan is awarded, the contracting officer who approved the plan is responsible for the following:

* * * * *
 (b) Forwarding a copy of each commercial plan and any associated approvals to the Assistant Regional Administrator for Procurement Assistance in the SBA region where the contractor's headquarters is located.

* * * * *
 (g) Taking action to enforce the terms of the contract upon receipt of a notice under 19.706(f).

10. Section 19.705-7 is amended by revising paragraphs (b) and (c); the last sentence of paragraph (d) and paragraph (f); and by adding paragraph (h) to read as follows:

19.705-7 Liquidated damages.

* * * * *
 (b) The amount of damages attributable to the contractor's failure to comply shall be an amount equal to the actual dollar amount by which the contractor failed to achieve each subcontracting goal.

(c) If, at completion of the basic contract or any option, or in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, a contractor has failed to meet its subcontracting goals, the contracting officer shall review all available information for an indication

that the contractor has not made a good faith effort to comply with the plan. If no such indication is found, the contracting officer shall document the file accordingly. If the contracting officer decides in accordance with paragraph (d) of this subsection that the contractor failed to make a good faith effort to comply with its subcontracting plan, the contracting officer shall give the contractor written notice specifying the failure, advising the contractor of the possibility that the contractor may have to pay to the Government liquidated damages, and providing a period of 15 working days (or longer period as necessary) within which to respond. The notice shall give the contractor an opportunity to demonstrate what good faith efforts have been made before the contracting officer issues the final decision, and shall further state that failure of the contractor to respond may be taken as an admission that no valid explanation exists.

(d) * * * However, when considered in the context of the contractor's total effort in accordance with its plan, the following, though not all inclusive, may be considered as indicators of a failure to make a good faith effort: a failure to attempt to identify, contact, solicit, or consider for contract award small, small disadvantaged or women-owned small business concerns; a failure to designate and maintain a company official to administer the subcontracting program and monitor and enforce compliance with the plan; a failure to submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms or as provided in agency regulations; a failure to maintain records or otherwise demonstrate procedures adopted to comply with the plan; or the adoption of company policies or procedures that have as their objectives the frustration of the objectives of the plan.

* * * * *
 (f) With respect to commercial plans approved under the clause at 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, the contracting officer that approved the plan shall—

(1) Perform the functions of the contracting officer under this subsection on behalf of all agencies with contracts covered by the commercial plan;

(2) Determine whether or not the goals in the commercial plan were achieved and, if they were not achieved, review all available information for an indication that the contractor has not

made a good faith effort to comply with the plan, and document the results of the review;

(3) If a determination is made to assess liquidated damages, in order to calculate and assess the amount of damages, the contracting officer shall ask the contractor to provide—

(i) Contract numbers for the Government contracts subject to the plan;

(ii) The total Government sales during the contractor's fiscal year; and

(iii) The amount of payments made under the Government contracts subject to that plan that contributed to the contractor's total sales during the contractor's fiscal year; and

(4) When appropriate, assess liquidated damages on the Government's behalf, based on the pro rata share of subcontracting attributable to the Government contracts. For example: The contractor's total actual sales were \$50 million and its actual subcontracting was \$20 million. The Government's total payments under contracts subject to the plan contributing to the contractor's total sales were \$5 million, which accounted for 10 percent of the contractor's total sales. Therefore, the pro rata share of subcontracting attributable to the Government contracts would be 10 percent of \$20 million, or \$2 million. To continue the example, if the contractor failed to achieve its small business goal by 1 percent, the liquidated damages would be calculated as 1 percent of \$2 million, or \$20,000. The contracting officer shall make similar calculations for each category of small business where the contractor failed to achieve its goal and the sum of the dollars for all of the categories equals the amount of the liquidated damages to be assessed. A copy of the contracting officer's final decision assessing liquidated damages shall be provided to other contracting officers with contracts subject to the commercial plan.

(h) Every contracting officer with a contract that is subject to a commercial plan shall include in the contract file a copy of the approved plan and a copy of the final decision assessing liquidating damages, if applicable.

11. Section 19.706 is amended in paragraph (a) by removing the paragraph designation "(a)"; by removing paragraph (b); by redesignating (a)(1) through (a)(6) as (a) through (f), respectively; in newly designated (e) by removing "and" at the end; in newly designated (f) by removing the period at the end and inserting "; and"; and by adding (g) to read as follows:

19.706 Responsibilities of the cognizant administrative contracting officer.

* * * * *

(g) Immediate notice that performance under a contract is complete, that the goals were or were not met, and, if not met, whether there is any indication of a lack of a good faith effort to comply with the subcontracting plan.

12. Section 19.708 is amended by revising paragraph (b)(2); in the first sentence of (c)(1) by removing "(see 19.702(a)(1))" and inserting in its place "(see 19.702)"; and in the second sentence of (c)(2) by removing "award fee" and inserting in its place "award-fee". The revised text reads as follows:

19.708 Solicitation provisions and contract clauses.

* * * * *

(b) * * * *

(2) The contracting officer shall insert the clause at 52.219-16, Liquidated Damages—Subcontracting Plan, in all solicitations and contracts containing the clause at 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, or the clause with its Alternate I or II.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. Section 52.219-9 is amended by revising the clause date and paragraphs (b), (d)(2)(i), (d)(9), (d)(10), the first sentence of (d)(11) introductory text, and the second sentence of (d)(11)(vi); in the second sentence of (e)(1) by revising "contractor's" to read "Contractor's"; and by revising (f) introductory text and (g). The revised text reads as follows:

52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

* * * * *

SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (AUG 1998)

* * * * *

(b) *Definitions.* As used in this clause—

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Individual contract plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific

contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master plan means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

* * * * *

(d) * * *

(2) * * *

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

* * * * *

(9) Assurances that the offeror will include the clause in this contract entitled "Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, following the instructions on the forms or as provided in agency regulations; and

(iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small, small disadvantaged and women-owned small business concerns and award subcontracts to them. * * *

* * * * *

(vi) * * * Contractors having commercial plans need not comply with this requirement.

* * * * *

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan

required of the offeror by this clause; provided—

* * * * *

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.

* * * * *

(End of clause)

* * * * *

14. Section 52.219-16 is amended by revising the clause date, paragraph (b), the first sentence of (c), and paragraph (d) to read as follows:

52.219-16 Liquidated Damages— Subcontracting Plan.

* * * * *

LIQUIDATED DAMAGES— SUBCONTRACTING PLAN (AUG 1998)

* * * * *

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and

permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. * * *

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

* * * * *

(End of clause)

PART 53—FORMS

53.219 [Amended]

15. Section 53.219 is amended in paragraphs (a) and (b) by removing "(REV. 10/96)" and inserting "(Rev. 8/98)", and by revising the citation "19.704(a)(5)" to read "19.704(a)(10)"

16. Section 53.301-294 is revised to read as follows:

53.301-294 Standard Form 294, Subcontracting Report for Individual Contracts.

BILLING CODE 6820-EP-P

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB No.: 9000-0006
 Expires: 04/30/2001

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED			3. DATE SUBMITTED		
a. COMPANY NAME			4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU: YEAR		
b. STREET ADDRESS					
c. CITY		d. STATE	e. ZIP CODE	<input type="checkbox"/> MAR 31 <input type="checkbox"/> SEPT 30	
2. CONTRACTOR IDENTIFICATION NUMBER			5. TYPE OF REPORT		
			<input type="checkbox"/> REGULAR <input type="checkbox"/> FINAL <input type="checkbox"/> REVISED		

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

<input type="checkbox"/> ARMY	<input type="checkbox"/> GSA	<input type="checkbox"/> NASA
<input type="checkbox"/> NAVY	<input type="checkbox"/> DOE	<input type="checkbox"/> OTHER FEDERAL AGENCY <i>(Specify)</i>
<input type="checkbox"/> AIR FORCE	<input type="checkbox"/> DEFENSE LOGISTICS AGENCY	

7. REPORT SUBMITTED AS <i>(Check one and provide appropriate number)</i>		8. AGENCY OR CONTRACTOR AWARDING CONTRACT			
<input type="checkbox"/> PRIME CONTRACTOR <input type="checkbox"/> SUBCONTRACTOR	PRIME CONTRACT NUMBER	a. AGENCY'S OR CONTRACTOR'S NAME			
	SUBCONTRACT NUMBER				b. STREET ADDRESS
9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS:		c. CITY		d. STATE	e. ZIP CODE
<input type="checkbox"/> DO INCLUDE INDIRECT COSTS <input type="checkbox"/> DO NOT INCLUDE INDIRECT COSTS					

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS <i>(Include SDB, WOSB, HBCU/MI) (Dollar Amount and Percent of 10c.)</i>				
10b. LARGE BUSINESS CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				
10c. TOTAL <i>(Sum of 10a and 10b.)</i>		100.0%		100.0%
11. SMALL DISADVANTAGED (SDB) CONCERNS <i>(Include HBCU/MI) (Dollar Amount and Percent of 10c.)</i>				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>				

13. REMARKS

14a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN		14b. TELEPHONE NUMBER	
		AREA CODE	NUMBER

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This report is not required for commercial items for which a commercial plan has been approved, nor from large businesses in the Department of Defense (DOD) Test Program for Negotiation of Comprehensive Subcontracting Plans. The Summary Subcontract Report (SF 295) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over \$500,000 (over \$1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually during contract performance for the periods ended March 31st and September 30th. A separate report is required for each contract at contract completion. Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.

5. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands should be included in this report.

6. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and; (8) Company affiliation.

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated in this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 12. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the

BLOCKS 10a through 12: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, and, WOSB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 13. The amounts entered in Blocks 10a through 12 should reflect the revised goals.) Under "Actual Cumulative," enter actual subcontract achievements (dollar and percent) from the inception of the contract through the date of the report shown in Block 4. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs and WOSBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 and 12: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in both Block 11 and Block 12 (i.e., SDBs owned by women).

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned firms (including SDBs owned by women).

BLOCK 13: Enter a short narrative explanation if (a) SB, SDB, or WOSB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the three goals was not met.

DEFINITIONS

1. Commercial item means a product or service that satisfies the definition of commercial item in Section 2.101 of the Federal Acquisition Regulation.

2. Commercial plan means a subcontracting plan, including goals, that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

3. Subcontract means a contract, purchase order, amendment, or other legal obligation executed by the prime contractor/subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

4. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

5. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Logistics Agency (DLA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commercial Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

STANDARD FORM 294 (REV. 8-98) BACK

17. Section 53.301-295 is revised to read as follows:

53.301-295 Standard Form 295, Subcontract Report.

SUMMARY SUBCONTRACT REPORT <i>(See instructions on reverse)</i>	OMB No.: 9000-0007 Expires: 06/30/2000
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Public reporting burden for this collection of information is estimated to average 13 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED			3. DATE SUBMITTED	
a. COMPANY NAME			4. REPORTING PERIOD: YEAR <input type="checkbox"/> OCT 1 - MAR 31 <input type="checkbox"/> OCT 1 - SEPT 30	
b. STREET ADDRESS				
c. CITY	d. STATE	e. ZIP CODE		
2. CONTRACTOR IDENTIFICATION NUMBER			5. TYPE OF REPORT <input type="checkbox"/> REGULAR <input type="checkbox"/> FINAL <input type="checkbox"/> REVISED	

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

<input type="checkbox"/> ARMY	<input type="checkbox"/> DEFENSE LOGISTICS AGENCY	<input type="checkbox"/> DOE
<input type="checkbox"/> NAVY	<input type="checkbox"/> NASA	<input type="checkbox"/> OTHER FEDERAL AGENCY <i>(Specify)</i>
<input type="checkbox"/> AIR FORCE	<input type="checkbox"/> GSA	

7. REPORT SUBMITTED AS <i>(Check one)</i>		8. TYPE OF PLAN	
<input type="checkbox"/> PRIME CONTRACTOR	<input type="checkbox"/> BOTH	<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> COMMERCIAL
<input type="checkbox"/> SUBCONTRACTOR		IF PLAN IS A COMMERCIAL PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY. ▶	

9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES

a		c	
b		d	

CUMULATIVE FISCAL YEAR SUBCONTRACT AWARDS
(Report cumulative figures for reporting period in Block 4)

TYPE	WHOLE DOLLARS	PERCENT <small>(To nearest tenth of a %)</small>
10a. SMALL BUSINESS CONCERNS <i>(Include SDB, WOSB, HBCU/MI)</i> <i>(Dollar Amount and Percent of 10c.)</i>		
10b. LARGE BUSINESS CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>		
10c. TOTAL <i>(Sum of 10a and 10b.)</i>		100.0%
11. SMALL DISADVANTAGED (SDB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>		
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS <i>(Dollar Amount and Percent of 10c.)</i>		
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) <i>(If applicable)</i> <i>(Dollar Amount and Percent of 10c.)</i>		

14. REMARKS

15. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM

a. NAME	b. TITLE	c. TELEPHONE NUMBER	
		AREA CODE	NUMBER

16. CHIEF EXECUTIVE OFFICER

a. NAME	c. SIGNATURE
b. TITLE	d. DATE

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.
2. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over \$500,000 (over \$1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).
3. This report must be submitted semi-annually (for the six months ended March 31st and the twelve months ended September 30th) for contracts with the Department of Defense (DOD) and annually (for the twelve months ended September 30th) for contracts with civilian agencies, except for contracts covered by an approved Commercial Plan (see special instructions in right-hand column). Reports are due 30 days after the close of each reporting period.
4. This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating on a separate profit center) basis, unless otherwise directed by the agency awarding the contract.
5. If a prime contractor/subcontractor is performing work for more than one Federal agency, a separate report shall be submitted to each agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$500,000 (over \$1,000,000 for construction of a public facility) and contains a subcontracting plan. (Note that DOD is considered to be a single agency; see next instruction.)
6. For DOD, a consolidated report should be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DOD prime contractors. However, DOD contractors involved in construction and related maintenance and repair must submit a separate report for each DOD component.
7. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands should be included in this report.
8. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.
9. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.
10. See special instructions in right-hand column for Commercial Plans.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and (8) Company affiliation.

BLOCK 4: Check only one. Note that March 31 represents the six months from October 1st and that September 30th represents the twelve months from October 1st. Enter the year of the reporting period.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed all the contracts containing subcontracting plans awarded by the agency to which it is reporting. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: This report encompasses all contracts with the Federal Government for the agency to which it is submitted, including subcontracts received from other large businesses that have contracts with the same agency. Indicate in this block whether the contractor is a prime contractor, subcontractor, or both (check only one).

BLOCK 8: Check only one. Check "Commercial Plan" only if this report is under an approved Commercial Plan. For a Commercial Plan, the contractor must specify the percentage of dollars in Blocks 10a through 13 attributable to the agency to which this report is being submitted.

BLOCK 9: Identify the major product or service lines of the reporting organization.

BLOCKS 10a through 13: These entries should include all subcontract awards resulting from contracts or subcontracts, regardless of dollar amount, received from the agency to which this report is submitted. If reporting as a subcontractor, report all subcontracts awarded under prime contracts. Amounts should include both direct awards and an appropriate prorated portion of indirect awards. (The indirect portion is based on the percentage of work being performed for the organization to which the report is being submitted in relation to other work being performed by the prime contractor/subcontractor.) Do not include awards made in support of commercial business unless "Commercial" is checked in Block 8 (see Special Instructions for Commercial Plans in right hand column).

Report only those dollars subcontracted this fiscal year for the period indicated in Block 4.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs and WOSBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the grand total of all subcontracts (the sum of lines 10a and 10b).

BLOCKS 11 and 13: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported on both Block 11 and Block 12 (i.e., SDBs owned by women); likewise subcontracts to HBCUs or MIs should be reported on both Block 11 and 13.

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned Small Business firms (including SDBs owned by women).

BLOCK 13 (For contracts with DOD, NASA, and Coast Guard): Enter the dollar value of all subcontracts with HBCUs/MIs.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PLANS

1. This report is due on October 30th each year for the previous fiscal year ended September 30th.
2. The annual report submitted by reporting organizations that have an approved company-wide annual subcontracting plan for commercial items shall include all subcontracting activity under commercial plans in effect during the year and shall be submitted in addition to the required reports for other-than-commercial items, if any.
3. Enter in Blocks 10a through 13 the total of all subcontract awards under the contractor's Commercial Plan. Show in Block 8 the percentage of this total that is attributable to the agency to which this report is being submitted. This report must be submitted to each agency from which contracts for commercial items covered by an approved Commercial Plan were received.

DEFINITIONS

1. Commercial item means a product or service that satisfies the definition of commercial item in Section 2.101 of the Federal Acquisition Regulation.
2. Commercial plan means a subcontracting plan, including goals, that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).
3. Subcontract means a contract, purchase order, amendment, or other legal obligation executed by the prime contractor/subcontractor calling for supplies or services required for the performance of the original contract or subcontract.
4. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).
5. Indirect Subcontract Awards are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

SUBMITTAL ADDRESSES FOR ORIGINAL REPORT

For DOD Contractors, send reports to the cognizant contract administration office as stated in the contract.

For Civilian Agency Contractors, send reports to awarding agency:

1. NASA: Forward reports to NASA, Office of Procurement (HS), Washington, DC 20546
2. OTHER FEDERAL DEPARTMENTS OR AGENCIES: Forward report to the OSD/BU Director unless otherwise provided for in instructions by the Department or Agency.

FOR ALL CONTRACTORS:

SMALL BUSINESS ADMINISTRATION (SBA): Send "info copy" to the cognizant Commercial Market Representative (CMR) at the address provided by SBA. Call SBA Headquarters in Washington, DC at (202) 205-6475 for correct address if unknown.

STANDARD FORM 295 (REV. 8-98) BACK

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 16

[FAC 97-05; FAR Case 97-042; Item IV]

RIN 9000-A101

**Federal Acquisition Regulation; Limits
on Fee for Cost-Plus-Incentive-Fee and
Cost-Plus-Award-Fee 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 clarify fee limitations pertaining to cost-reimbursement contracts. 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.

EFFECTIVE DATE: August 21, 1998.

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 DeStefano, Procurement Analyst, at (202) 501-1758. Please cite FAC 97-05, FAR case 97-042.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Part 16 to clarify fee limitations pertaining to cost-reimbursement contracts. Federal Acquisition Circular 97-02, FAR Part 15 Rewrite, published as a final rule on September 30, 1997 (62 FR 51224), eliminated non-statutory fee limitations for cost-plus-incentive-fee and cost-plus-award-fee contracts. This final rule makes conforming amendments to FAR Part 16.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, comments from small entities concerning the affected FAR subparts 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 97-05, FAR case 97-042), in correspondence.

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 16

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,*Director, Federal Acquisition Policy Division.*

Therefore, 48 CFR Part 16 is amended as set forth below:

PART 16—TYPES OF CONTRACTS

1. The authority citation for 48 CFR Part 16 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).

16.301-3 [Amended]

2. Section 16.301-3 is amended by removing paragraph (a)(3).

3. Section 16.306 is amended by revising paragraph (c) to read as follows:

16.306 Cost-plus-fixed-fee contracts.

* * * * *

(c) *Limitations.* No cost-plus-fixed-fee contract shall be awarded unless the contracting officer complies with all limitations in 15.404-4(c)(4)(i) and 16.301-3.

* * * * *

16.405-2 [Amended]

4. Section 16.405-2 is amended at the end of paragraph (c)(1) by adding "and"; by removing paragraph (c)(2) and redesignating paragraph (c)(3) as (c)(2).

[FR Doc. 98-16115 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Parts 22 and 52

[FAC 97-05; FAR Case 96-610; Item V]

RIN 9000-AH99

**Federal Acquisition Regulation;
Rehabilitation Act, Workers With
Disabilities**

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement revised Department of Labor regulations regarding affirmative action to employ and advance in employment qualified individuals with disabilities. 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.

DATES: Effective June 22, 1998.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 21, 1998 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 the Internet should be addressed to: farcase.96-610@gsa.gov.

Please cite FAC 97-05, FAR case 96-610 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 Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-05, FAR case 96-610.

SUPPLEMENTARY INFORMATION:

A. Background

On May 1, 1996, the Department of Labor (DoL) issued a final rule (61 FR 19335) to revise its regulations (41 CFR 60-741) that implement Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793). The rule was effective August 29, 1996. This interim rule amends FAR Subpart 22.14 and the clauses at 52.212-5 and 52.222-36 to conform to the DoL regulations.

B. Regulatory Flexibility Act

The interim 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 implements existing Department of Labor regulations, and imposes no new requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited. 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 96-610), in correspondence.

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 collection 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.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This rule amends the FAR to conform to Department of Labor regulations at 41 CFR 60-741 that implement Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793). Immediate publication is necessary to ensure that Government contractors take affirmative action required by statute to employ, and advance in employment, qualified individuals with disabilities. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 22 and 52

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 22 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 22 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 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 22.14—Employment of Workers With Disabilities

2. The heading of Subpart 22.14 is revised to read as set forth above.

3. Sections 22.1401 and 22.1402 are revised to read as follows:

22.1401 Policy.

Government contractors, when entering into contracts subject to the Act, are required to take affirmative action to employ, and advance in employment, qualified individuals with disabilities, without discrimination based on their physical or mental disability.

22.1402 Applicability.

(a) Section 503 of the Act applies to all Government contracts in excess of \$10,000 for supplies and services (including construction) except as waived by the Secretary of Labor. The clause at 52.222-36, Affirmative Action for Workers with Disabilities, implements the Act.

(b) The requirements of the clause at 52.222-36, Affirmative Action for Workers with Disabilities, in any contract with a State or local government (or any agency, instrumentality, or subdivision) shall not apply to any agency, instrumentality, or subdivision of that government that does not participate in work on or under the contract.

4. Section 22.1403 is amended by revising paragraph (a) introductory text; in (b)(1) by revising "Director of OFCCP" to read "Deputy Assistant Secretary"; in (b)(2) and the first sentence of (d) by revising "Director" to read "Deputy Assistant Secretary"; and in the last sentence of (d) by removing the word "calendar". The revised text reads as follows:

22.1403 Waivers.

(a) The agency head, with the concurrence of the Deputy Assistant

Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary), may waive any or all of the terms of the clause at 52.222-36, Affirmative Action for Workers with Disabilities, for—

* * * * *

5. Section 22.1404 is revised to read as follows:

22.1404 Department of Labor notices.

The contracting officer shall furnish to the contractor appropriate notices that state the contractor's obligations and the rights of individuals with disabilities. The contracting officer may obtain these notices from the Office of Federal Contract Compliance Programs (OFCCP) regional office.

22.1405 [Amended]

6. Section 22.1405 is amended in the first sentence by replacing "Handicapped Workers" with "Workers with Disabilities".

22.1406 [Amended]

7. Section 22.1406 is amended by revising "OFCCP" to read "Deputy Assistant Secretary for Federal Contract Compliance" the first time it appears.

8. Section 22.1407 is amended by revising the introductory paragraph to read as follows:

22.1407 Actions because of noncompliance.

The contracting officer shall take necessary action, as soon as possible upon notification by the appropriate agency official, to implement any sanctions imposed on a contractor by the Department of Labor for violations of the clause at 52.222-36, Affirmative Action for Workers with Disabilities. These sanctions (see 41 CFR 60-741.66) may include—

* * * * *

9. Section 22.1408 is amended by revising paragraph (a) introductory text and (a)(1) to read as follows:

22.1408 Contract clause.

(a) The contracting officer shall insert the clause at 52.222-36, Affirmative Action for Workers with Disabilities, in solicitations and contracts that exceed \$10,000 or are expected to exceed \$10,000, except when—

(1) Work is to be performed outside the United States by employees recruited outside the United States (for the purpose of this subpart, *United States* includes the several states, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island); or

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 52.212-5 is amended by revising the date of the clause and paragraphs (b)(8) and (e)(3) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Jun 1998)

* * * * *

(b) * * *

(8) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

* * * * *

(e) * * *

(3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793); and

* * * * *

(End of clause)

11. Section 52.213-4 is amended by revising the clause date and paragraph (b)(1)(iv) of the clause to read as follows:

52.213-4 Terms and Conditions Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Jun 1998)

* * * * *

(b)(1) * * *

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793) (Applies to contracts over \$10,000).

* * * * *

12. Section 52.222-36 is revised to read as follows:

52.222-36 Affirmative Action for Workers With Disabilities.

As prescribed in 22.1408(a), insert the following clause:

Affirmative Action for Workers With Disabilities (Jun 1998)

(a) *General.* (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as—

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) *Postings.* (1) The Contractor agrees to post employment notices stating—

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) *Noncompliance.* If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance. (End of clause)

Alternate I (Jun 1998). As prescribed in 22.1408(b), add the following as a preamble to the clause:

Notice: The following term(s) of this clause are waived for this contract:

_____ [List term(s)].

[FR Doc. 98-16116 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 25**

[FAC 97-05; FAR Case 97-044; Item VI]

RIN 9000-AI02

Federal Acquisition Regulation; Trade Agreements Thresholds

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 revised thresholds for application of the Trade Agreements Act and the North American Free Trade Agreement. 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.

EFFECTIVE DATE: August 21, 1998.

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. Paul Linfield, Procurement Analyst, at (202) 501-1757. Please cite FAC 97-05, FAR case 97-044.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule amends FAR Part 25 to implement revised thresholds for application of the Trade Agreements Act and the North American Free Trade Agreement, as published by the Office of the United States Trade Representative in the **Federal Register** on January 14, 1998 (63 FR 2295).

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 subparts 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 97-05, FAR case 97-044), in correspondence.

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 25

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 25 is amended as set forth below:

PART 25—FOREIGN ACQUISITION

1. The authority citation for 48 CFR Part 25 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 25.105 is amended by revising paragraph (e) to read as follows:

25.105 Evaluating offers.

* * * * *

(e) The evaluation in paragraph (a) of this section shall not be applied to offers of Canadian end products above \$25,000 or Mexican end products above \$53,150 (see 25.402(a)(3)(ii)). For the definitions of "Canadian end product" and "Mexican end product," see 25.401.

25.202, 25.207, 25.305, 25.402, 25.408, 25.1002, and 25.1003 [Amended]

3. In the list below, for each section listed in the left column, remove the dollar amount indicated in the middle column, and add the dollar amount indicated in the right column:

Section	Remove	Add
25.202(d)	\$6,500,000	\$6,909,500
25.207(d)(1)	7,311,000 (twice)	7,143,000 (twice)
25.207(d)(2)	7,311,000	7,143,000
25.305(c)(2)	6,500,000	6,909,500
25.402(a)(1)	7,311,000	7,143,000
25.402(a)(3)(i)	6,500,000	6,909,500
25.402(a)(3)(ii)	190,000	186,000
25.402(g)	7,311,000	7,143,000
25.408(a)(3)	6,500,000	6,909,500
25.408(a)(4)	50,000	53,150
25.1002(a)(1)	50,000	53,150
25.1002(a)(2)	6,500,000	6,909,500
25.1002(a)(3)(i)	50,000	53,150
25.1003(a)	50,000	53,150
25.1003(b)(1)	190,000	186,000
	7,311,000	7,143,000
	190,000	186,000
	190,000	186,000
	190,000	186,000

[FR Doc. 98-16117 Filed 6-19-98; 8:45 am]
BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 97-05; FAR Case 97-301; Item VII]

RIN 9000-A103

Federal Acquisition Regulation; Restrictions on Purchases From Sudan

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 add Sudan to the list of countries from which Government acquisition of supplies and services is restricted. 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.

EFFECTIVE DATE: August 21, 1998.

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. Paul Linfield, Procurement Analyst, at (202) 501-1757. Please cite FAC 97-05, FAR case 97-301.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 25.701 and 52.225-11 by adding Sudan to the list of countries whose products are banned from importation into the United States. This rule implements Executive Order 13067, dated November 3, 1997 (62 FR 59989, November 5, 1997).

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 97-05, FAR case 97-301), in correspondence.

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 25 and 52

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 25 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 25—FOREIGN ACQUISITION

2. Section 25.701 is amended in paragraph (a)(4) by removing “or”; in (a)(5) by removing the period and inserting “; or” in its place; and by adding (a)(6) to read as follows:

25.701 Restrictions.

(a) * * *

(6) Sudan (Executive Order 13067).

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.213-4 [Amended]

3. Section 52.213-4 is amended by revising the date of the clause to read “(Aug 1998)”; and in paragraph (a)(2)(i) of the clause by removing “(Oct 1996)” and inserting “(Aug 1998)” in its place.

4. Section 52.225-11 is amended by revising the date of the clause and paragraph (a) to read as follows:

52.225-11 Restrictions on Certain Foreign Purchases.

* * * * *

Restrictions on Certain Foreign Purchases (Aug 1998)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States by Executive order or regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries

include Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

* * * * *

[FR Doc. 98-16118 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 27

[FAC 97-05; FAR Case 97-614; Item VIII]

RIN 9000-A104

Federal Acquisition Regulation; Software Copyrights

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 clarify that computer software produced under Government contracts may be special works to which the Government may obtain copyright. 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.

EFFECTIVE DATE: August 21, 1998.

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 97-05, FAR case 97-614.

SUPPLEMENTARY INFORMATION:

A. Background

The definition of “data” to which the FAR clause at 52.227-17, Rights in Data—Special Works, applies includes computer software. However, FAR 27.405, which provides guidance for use of the clause, does not include computer software among its examples of special works. This final rule clarifies that the Government may use the clause to retain copyright to certain computer

software produced under Government contracts, when appropriate.

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 97-05, FAR case 97-614), in correspondence.

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 27

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 27 is amended as set forth below:

PART 27—PATENTS, DATA, AND COPYRIGHTS

1. The authority citation for 48 CFR Part 27 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 27.405 is amended in paragraph (a)(1)(vii) by removing “or” at the end of (a)(1)(viii) by removing the period and inserting “; or” in its place; and adding paragraph (a)(1)(ix) to read as follows:

27.405 Other data rights provisions.

(a) *Production of special works.* (1)
* * *

(ix) The development of computer software programs, where the program—
(A) May give a commercial advantage; or;

(B) Is agency mission sensitive, and release could prejudice agency mission, programs, or follow-on acquisitions.

* * * * *

[FR Doc. 98-16119 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 31

[FAC 97-05; FAR Case 97-007; Item IX]

RIN 9000-AH76

Federal Acquisition Regulation; Travel
Reimbursement

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

ACTION: Interim rule adopted as final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published as Item IX of Federal Acquisition Circular 97-03 at 62 FR 64932, December 9, 1997, to a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to increase from \$25 to \$75 the threshold at which contractor personnel must provide a receipt to support travel expenditures. 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.

EFFECTIVE DATE: August 21, 1998.

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 97-05, FAR case 97-007.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published in the **Federal Register** on December 9, 1997 (62 FR 64932). The interim rule amended FAR 31.205-46 to increase from \$25 to \$75 the threshold at which contractor personnel must provide a receipt to support travel expenditures. Public comments were received from one source. All comments were considered in developing the final rule. The interim rule is converted to a final rule without change.

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 most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principle contained in this rule.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the final rule contains information collection requirements. Since the threshold at which contractor personnel must provide a receipt to support travel expenditures has been increased, a request to decrease the burden hours previously approved under Office of Management and Budget (OMB) Control Number 9000-0088 was submitted to OMB under 44 U.S.C. 3501, *et seq.* Public comments concerning this request were invited through **Federal Register** notice dated December 9, 1997 (62 FR 64932). No public comments were received.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Interim Rule Adopted as Final Without
Change

Accordingly, the interim rule amending 48 CFR Part 31, which was published at 62 FR 64932, December 9, 1997, is adopted as a final rule without change.

The authority citation for 48 CFR Part 31 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).

[FR Doc. 98-16120 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 48

[FAC 97-05; FAR Case 96-011; Item X]

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 with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule amending 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. 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.

DATES: Effective June 22, 1998.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 21, 1998 to be considered in the formulation of a final rule.

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

E-Mail comments submitted over the Internet should be addressed to: farcase.96-011@gsa.gov.

Please cite FAC 97-05, FAR case 96-011 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. Linda Klein, Procurement Analyst, at (202) 501-3775. Please cite FAC 97-05, FAR case 96-011.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule clarifies 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.

B. Regulatory Flexibility Act

The changes may 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 could reduce the number of no-cost VECP settlements negotiated between the Government and private entities. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

This interim rule clarifies that the guidance at FAR 48.104-3, Sharing alternative—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.

A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration and may be obtained from the FAR Secretariat at the address above. Comments are invited. Comments from small entities concerning the affected FAR subpart 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 96-011), in correspondence.

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 collection 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.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to preclude misinterpretation and misuse of existing guidance and resulting VECP settlements that do not provide the Government with appropriate consideration. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 48

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

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

PART 48—VALUE ENGINEERING

1. The authority citation for 48 CFR Part 48 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 48.104-3 is revised to read as follows:

48.104-3 Sharing alternative—no-cost settlement method.

In selecting an appropriate mechanism for incorporating a VECP into a contract, the contracting officer shall analyze the different approaches available to determine which one would be in the Government's best interest. Contracting officers should balance the administrative costs of negotiating a settlement against the anticipated savings. A no-cost settlement may be used if, 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. Under this method of settlement, the contractor would keep all of the savings on the instant contract, and all savings on its concurrent contracts only. The Government would keep all savings resulting from concurrent contracts placed with other sources, savings from all future contracts, and all collateral savings. Use of this method must be by

mutual agreement of both parties for individual VECPs.

[FR Doc. 98-16121 Filed 6-19-98; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 5, 8, 31, 45, and 53**

[FAC 97-05; Item XI]

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: June 22, 1998.

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

List of Subjects in 48 CFR Parts 5, 8, 31, 45, and 53

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 5, 8, 31, 45, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 5, 8, 31, 45, 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 5—PUBLICIZING CONTRACT ACTIONS**5.201 [Amended]**

2. Section 5.201 is amended in paragraph (b)(2) by revising "(see 5.205(d))" to read "(see 5.205(e))".

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES**8.404 [Amended]**

3. Section 8.404 is amended in the first sentence of paragraph (a) by revising "13.202(c)(3)" to read "13.303-2(c)(3)".

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.002 [Amended]

4. Section 31.002 is amended by revising “Guidance for New Contractors” to read “Information for Contractors”.

PART 45—GOVERNMENT PROPERTY

45.607-2 [Amended]

5. Section 45.607-2 is amended in the third sentence of paragraph (b) by revising “DLA:SIP” to read “DLSC-LC”.

PART 53—FORMS

6. Section 53.101 is amended by revising the last sentence to read as follows:

§ 53.101 Requirements for use of forms.
* * * The specific location of each requirement is identified in subpart 53.2.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 97-05 which amends the FAR. Further information regarding these rules may be obtained by referring to FAC 97-05 which precedes this document. The FAC, including this document, may be obtained from the Internet at <http://www.arnet.gov/far>.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, (202) 501-4755.

SUPPLEMENTARY INFORMATION:

LIST OF RULES IN FAC 97-05

Item	Subject	Far case	Analyst
I	Subcontract Consent	95-011	Klein
II	Availability of Specifications	97-034	DeStefano
III	Liquidated Damages	89-042/97-300	Moss
IV	Limits on Fee for Cost-Plus-Incentive-Fee and Cost-Plus-Award-Fee Contracts	97-042	DeStefano
V	Rehabilitation Act, Workers With Disabilities (Interim)	96-610	O'Neill
VI	Trade Agreements Thresholds	97-044	Linfield
VII	Restrictions on Purchases from Sudan	97-301	Linfield
VIII	Software Copyrights	97-614	O'Neill
IX	Travel Reimbursement	97-007	Nelson
X	No-Cost Value Engineering Change Proposals (Interim)	96-011	Klein

Item I—Subcontract Consent (FAR Case 95-011)

This final rule amends FAR Parts 4, 22, 35, 36, 44, and 52 to reduce requirements for consent to subcontract. The rule eliminates consent requirements for contractors that have an approved purchasing system, except when specific contracts requiring consent are identified by the contracting officer; eliminates consent requirements for fixed-price incentive contracts and fixed-price redeterminable contracts; and increases, to the simplified acquisition threshold, the dollar level at which consent requirements are included in time-and-materials, labor-hour, and letter contracts.

Item II—Availability of Specifications (FAR Case 97-034)

This final rule amends FAR Parts 9 and 11 and the provisions at 52.211-1, 52.211-2, and 52.212-1 to update addresses and other information regarding the availability of

specifications, standards, and item descriptions that may be cited in Government solicitations and contracts. In addition, the rule clarifies the pricing policy regarding specifications, standards, and commercial item descriptions issued by GSA.

Item III—Liquidated Damages (FAR Cases 89-042 and 97-300)

This final rule amends FAR Parts 11, 19, 52, and 53 to clarify policy on liquidated damages and commercial subcontracting plans pertaining to requirements for subcontracting with small, small disadvantaged, and women-owned small business concerns. The rule implements Section 304 of the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) and OFPP Policy Letter 95-1, Subcontracting Plans for Companies Supplying Commercial Items. The interim rule published in FAC 84-50, FAR case 89-042, 54 FR 30708, July 21,

1989, has been merged with this final rule.

Item IV—Limits on Fee for Cost-Plus-Incentive-Fee and Cost-Plus-Award-Fee Contracts (FAR Case 97-042)

This final rule amends FAR Part 16 to clarify fee limitations pertaining to cost-reimbursement contracts. The FAR Part 15 rewrite in FAC 97-02 eliminated non-statutory fee limitations for cost-plus-incentive-fee and cost-plus-award-fee contracts. This final rule makes conforming changes to FAR Part 16.

Item V—Rehabilitation Act, Workers With Disabilities (FAR Case 96-610)

This interim rule amends FAR Subpart 22.14 and the clauses at 52.212-5 and 52.222-36 to implement revised Department of Labor regulations regarding affirmative action to employ and advance in employment qualified individuals with disabilities. The dollar threshold for use of the clause at 52.222-36 has been increased from \$2,500 to \$10,000.

Item VI—Trade Agreements Thresholds (FAR Case 97-044)

This final rule amends FAR Part 25 to implement revised thresholds for application of the Trade Agreements Act and the North American Free Trade Agreement, as published by the Office of the United States Trade Representative in the **Federal Register** on January 14, 1998 (63 FR 2295).

Item VII—Restrictions on Purchases From Sudan (FAR Case 97-301)

This final rule amends FAR 25.701 and the clause at 52.225-11 to add Sudan to the list of countries whose products are banned from importation into the United States. This rule

implements Executive Order 13067, dated November 3, 1997.

Item VIII—Software Copyrights (FAR Case 97-614)

This final rule amends FAR 27.405 to add contracts for certain computer software programs to the list of examples of contracts for special works to which the Government may obtain copyrights.

Item IX—Travel Reimbursement (FAR Case 97-007)

The interim rule published as Item IX of FAC 97-03 is converted to a final rule without change. The rule amends FAR 31.205-46 to increase from \$25.00 to \$75.00 the threshold at which contractor

personnel must provide a receipt to support travel expenditures.

Item X—No-Cost Value Engineering Change Proposals (FAR Case 96-011)

This interim rule revises FAR 48.104-3 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.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.
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