

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas is amended by adding Channel 235A at Markham.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division Media Bureau.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 33

[FAR Case 2006-031; Docket 2007-0001; Sequence 8]

RIN 9000-AK79

#### Federal Acquisition Regulation; FAR Case 2006-031, Enhanced Access for Small Business

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Section 857 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364).

**DATES:** Interested parties should submit written comments to the FAR Secretariat on or before October 22, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2006-031 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting “Federal Acquisition Regulation” as the agency of choice. At the “Keyword” prompt, type in the FAR case number (for example, FAR Case 2006-031) and click on the “Submit” button. You may also search for any document by clicking on the “Advanced search/document search” tab at the top of the screen, selecting from the agency field “Federal Acquisition Regulation”, and typing the FAR case number in the keyword field. Select the “Submit” button. Please include any personal and/or business information inside the document.

- Fax: 202-501-4067.

- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAR case 2006-031 in all correspondence related to this case. All

comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Murphy, Procurement Analyst, at (202) 208-6925 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2006-031.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 857 of the John Warner National Defense Authorization Act Fiscal Year 2007 (Pub. L. 109-364) created a higher ceiling for small businesses to use the small claims procedure to appeal a contracting officer’s final decision. This proposed rule amends the FAR to add the higher ceiling at 33.211(a)(4)(v).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### B. Regulatory Flexibility Act

The Councils do not expect this proposed rule 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 this proposed rule does not change the rules for buying and does not add an information collection requirement. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 33 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2006-031), in correspondence.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Part 33

Government procurement.

Dated: August 14, 2007

**Al Matera,**

*Director, Office of Acquisition Policy.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 33 as set forth below:

1. The authority citation for 48 CFR part 33 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 33—PROTESTS, DISPUTES, AND APPEALS**

2. Amend section 33.211 by revising paragraph (a)(4) to read as follows:

**33.211 Contracting officer's decision.**

(a) \* \* \*

(4) Prepare a written decision that shall include a—

(i) A description of the claim or dispute;

(ii) A reference to the pertinent contract terms;

(iii) A statement of the factual areas of agreement and disagreement;

(iv) A statement of the contracting officer's decision, with supporting rationale;

(v) Paragraphs substantially as follows:

“This is the final decision of the Contracting Officer. You may appeal this decision to the agency board of contract appeals. If you decide to appeal, you must, within 90 days from the date you receive this decision, mail or otherwise furnish written notice to the agency board of contract appeals and provide a copy to the Contracting Officer from whose decision this appeal is taken. The notice shall indicate that an appeal is intended, reference this decision, and identify the contract by number. With regard to appeals to the agency board of contract appeals, you may, solely at your election, proceed under the board's—

(1) Small claim procedure for claims of \$50,000 or less or, in the case of a small business concern (as defined in the Small Business Act and regulations under that Act), \$150,000 or less; or

(2) Accelerated procedure for claims of \$100,000 or less.

Instead of appealing to the agency board of contract appeals, you may bring an action directly in the United States Court of Federal Claims (except as provided in the Contract Disputes Act of 1978, 41 U.S.C. 603, regarding Maritime Contracts) within 12 months of the date you receive this decision”; and

(vi) Demand for payment prepared in accordance with 32.610(b) in all cases where the decision results in a finding that the contractor is indebted to the Government.

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