



Thursday
June 17, 1999

Part VI

**Department of Defense
General Services
Administration**

**National Aeronautics and
Space Administration**

48 CFR Chapter I, et al.
Federal Acquisition Circular 97-12
Introduction; Federal Acquisition
Regulation; Taxpayer Identification
Numbers; Use of Brand Name Item
Descriptions, et al.; Final Rules

DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Chapter 1

**Federal Acquisition Circular 97-12;
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.

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) 97-12. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via 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 97-12 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	Taxpayer Identification Numbers	97-003	Olson.
II	Use of Brand Name Item Descriptions	96-018	Moss.
III	SBA's 8(a) Business Development Program (Interim)	98-011	Moss.
IV	Competition Under Multiple Award Task and Delivery Order Contracts	98-007	DeStefano.
V	Application of the Brooks Act	98-023	O'Neill.
VI	Restrictions on the Acquisition of Information Technology	98-306	Nelson.
VII	Technical Amendments		

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 97-12 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I—Taxpayer Identification Numbers (FAR Case 97-003)

The interim rule published as Item I of the FAC 97-09 is converted to a final rule without change. The rule amends FAR Parts 1, 4, 13, 14, 15, and 52 to implement Subsection (i) of the Debt Collection Improvement Act of 1996 and Section 1022 of the Taxpayer Relief Act of 1997; and to clarify the Government requirements for reporting contract and payment information to the Internal Revenue Service (IRS).

Item II—Use of Brand Name Item Descriptions (FAR Case 96-018)

This final rule amends FAR Parts 11, 37, and 52 to clarify guidance for the use of brand name purchase descriptions.

Item III—SBA's 8(a) Business Development Program (FAR Case 98-011)

This interim rule amends FAR Parts 12, 19, and 52 to implement changes made in the Small Business Administration's 8(a) Business Development (8(a)BD) Program

regulation contained in 13 CFR parts 121, 124, and 134 regarding the eligibility procedures for admission to the 8(a)BD and contractual assistance programs.

Item IV—Competition Under Multiple Award Task and Delivery Order Contracts (FAR Case 98-007)

This final rule amends the procedures for placing orders under multiple award contracts at FAR 16.505(b). The amendment emphasizes that agencies shall use only fair methods when placing orders. For example, the contracting officer shall not employ allocation or designation of any preferred awardee(s) that would result in less than fair consideration being given to all awardees prior to placing each order.

Item V—Application of the Brooks Act (FAR Case 98-023)

This final rule amends FAR Part 36 to remove the reference to the National Imagery and Mapping Agency (NIMA) at FAR 36.601-4(a)(4).

Item VI—Restrictions on the Acquisition of Information Technology (FAR Case 98-306)

This final rule revises FAR 39.101 to implement Division A, Section 101(h), Title VI, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999. Section 622 provides that no appropriated funds may be used to acquire information technology that does not comply with

FAR 39.106, unless the agency's Chief Information Officer (CIO) determines that noncompliance with 39.106 is necessary to the function and operation of the agency or the acquisition is required by a contract in effect before October 21, 1998.

Item VII—Technical Amendments

Amendments are being made at 1.106, 9.505, 12.301, 19.803, 19.806, 22.609, 31.205-6, 42.203, 52.204-6, 52.212-1, 52.212-3, 52.213-4, 52.215-2, 52.219-1, 52.219-8, 52.219-14, 52.219-22, 53.214 and 53.215-1 in order to update references and make editorial changes.

FAR Index

The FAR Index is revised and a copy is provided in the looseleaf version of the FAR.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97-12 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 97-12 are effective August 16, 1999, except for Items I, III, VI, and VII which are effective June 17, 1999.

Dated: June 8, 1999.
Eleanor R. Spector,
Director, Defense Procurement.

Dated: June 7, 1999.
Ida M. Ustad,
Deputy Associate Administrator, Office of
Acquisition Policy General Services
Administration.

Dated: May 27, 1999.
Tom Luedtke,
Acting Associate Administrator for
Procurement National Aeronautics and Space
Administration.
[FR Doc. 99-15145 Filed 6-16-99; 8:45 am]
BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 13, 14, 15, and 52

[FAC 97-12; FAR Case 97-003; Item I]

RIN 9000-A114

Federal Acquisition Regulation; Taxpayer Identification Numbers

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

ACTION: Interim rule adopted as final
without change.

SUMMARY: The Civilian Agency
Acquisition Council and the Defense
Acquisition Regulations Council have
agreed to adopt the interim rule
published in the **Federal Register** at 63
FR 58587, October 30, 1998, as a final
rule without change. The rule amends
the Federal Acquisition Regulation
(FAR) to implement Subsection (i) of the
Debt Collection Improvement Act of
1996 and Section 1022 of the Taxpayer
Relief Act of 1997, and to clarify the
Government requirements for reporting
contract and payment information to the
Internal Revenue Service (IRS).

EFFECTIVE DATE: June 17, 1999.

FOR FURTHER INFORMATION CONTACT: The
FAR Secretariat, Room 4035, GS
Building, Washington, DC, 20405, (202)
501-4755, for information pertaining to
status or publication schedules. For
clarification of content, contact Mr.
Jeremy F. Olson, Procurement Analyst,
at (202) 501-3221. Please cite FAC 97-
12, FAR case 97-003.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an
interim FAR rule in the **Federal Register**
on October 30, 1998 (63 FR 58587), and
received no public comments.

Therefore, we converted the interim rule
to a final rule without change.

The interim rule implemented
Subsection (i) of the Debt Collection
Improvement Act of 1996 (Pub. L. 104-
134) and Section 1022 of the Taxpayer
Relief Act of 1997 (Pub. L. 105-32).
Subsection (i) amended 31 U.S.C. 7701
by requiring each contractor doing
business with the Government to
furnish its Taxpayer Identification
Number (TIN) and by requiring the
Government to disclose its intent to use
such number for purposes of collecting
and reporting on any delinquent
amounts. Section 1022 amended 26
U.S.C. 6041A(d) to add payments for
services provided by corporations to the
list of payments that the Government is
required to report to the IRS using Form
1099.

In addition, the interim rule clarified
the requirement for Government
agencies to obtain contract information
and payment information to facilitate
issuance of Forms 1099 and other
reports to the IRS. The rule deleted the
FAR clauses at 52.214-2, Type of
Business Organization—Sealed Bidding,
and 52.215-4, Type of Business
Organization, since the information
requested in these clauses duplicates
the information requested in FAR
8.405-2(q), Taxpayer Identification
Number, and FAR clauses 52.204-3,
Taxpayer Identification, and 52.212-3,
Offeror Representations and
Certifications Commercial Items.

This regulatory action was not subject
to Office of Management and Budget
review under Executive Order 12866,
dated September 30, 1993, and is not a
major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the
General Services Administration, and
the National Aeronautics and Space
Administration certify that this final
rule will not have a significant
economic impact on a substantial
number of small entities within the
meaning of the Regulatory Flexibility
Act, 5 U.S.C. 601, *et seq.*, because the
rule merely clarifies an existing
requirement for contractors to submit
TINs, and requires the Government to
advise contractors of the potential debt
collection usage of the TIN.

C. Paperwork Reduction Act

The Paperwork Reduction Act does
not apply because the changes to the

FAR do not impose information
collection requirements that require the
approval of the Office of Management
and Budget under 44 U.S.C. 3501, *et
seq.*

List of Subjects in 48 CFR Parts 1, 4, 13, 14, 15, and 52

Government procurement.

Dated: June 9, 1999.

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

Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA
adopt the interim rule amending 48 CFR
parts 1, 4, 13, 14, 15, and 52, which was
published at 63 FR 58587, October 30,
1998, as a final rule without change.

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

[FR Doc. 99-15146 Filed 6-16-99; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11, 37, and 52

[FAC 97-12; FAR Case 96-018; Item II]

RIN 9000-AH85

Federal Acquisition Regulation; Use of Brand Name Item Descriptions

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 (the
Councils) have agreed on a final rule
amending the Federal Acquisition
Regulation (FAR) to clarify guidance for
the use of brand name purchase
descriptions.

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: The
FAR Secretariat, Room 4035, GS
Building, Washington, DC 20405, (202)
501-4755, for information pertaining to
status or publication schedules. For
clarification of content, contact Ms.
Victoria Moss, Procurement Analyst, at
(202) 501-4764. Please cite FAC 97-12,
FAR case 96-018.

SUPPLEMENTARY INFORMATION:

A. Background

While indicating that performance specifications are the preferred method for describing the Government's needs, this final rule permits the use of brand name or equal purchase descriptions. The rule clarifies how brand name or equal purchase descriptions are structured, *i.e.*, salient functional, physical, or performance characteristics must be part of the description.

The Councils published a proposed rule in the **Federal Register** at 63 FR 63778, November 16, 1998, and considered all comments in the development of 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.

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 affects how purchase descriptions may be written for competitive procurements. The Final Regulatory Flexibility Analysis (FRFA) for this rule is summarized as follows:

The objective of the final rule is to provide more comprehensive, uniform FAR guidance on the appropriate use of brand name purchase descriptions. Application of the guidance supports consistent use of such purchase descriptions in Federal acquisitions. The rule will apply to all large and small entities that offer supplies to the Government that are brand name items or are comparable to such items. We anticipate that the selected approach will be the most advantageous to small entities, while achieving the objective of the rule because this approach best enables the Government to express its requirements clearly and describe the degree of flexibility with which offered supplies or services will be evaluated as "equal."

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy of the FRFA from the FAR Secretariat. We invite comments. The Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-12, FAR case 96-018), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the

FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 11 and 52

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 11 and 52 as set forth below:

1. The authority citation for 48 CFR parts 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 11—DESCRIBING AGENCY NEEDS

2. Redesignate sections 11.104 and 11.105 as sections 11.105 and 11.106, respectively; and add new sections 11.104 and 11.107 to read as follows:

11.104 Use of brand name or equal purchase descriptions.

(a) While the use of performance specifications is preferred to encourage offerors to propose innovative solutions, the use of brand name or equal purchase descriptions may be advantageous under certain circumstances.

(b) Brand name or equal purchase descriptions must include, in addition to the brand name, a general description of those salient physical, functional, or performance characteristics of the brand name item that an "equal" item must meet to be acceptable for award. Use brand name or equal descriptions when the salient characteristics are firm requirements.

11.107 Solicitation provision.

The contracting officer must insert the provision at 52.211-6, Brand Name or Equal, when brand name or equal purchase descriptions are included in a solicitation.

11.105 [Amended]

2a. Amend the introductory paragraph and paragraph (a) of newly redesignated section 11.105 by removing "brand-name" and adding "brand name" in its place.

PART 37—SERVICE CONTRACTING

37.602-1 [Amended]

3. Amend section 37.602-1 in the second sentence of paragraph (a) by removing "(see 11.105)" and adding "(see 11.106)" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Add section 52.211-6 to read as follows:

52.211-6 Brand Name or Equal.

As prescribed in 11.107, insert the following provision:

Brand Name or Equal (Aug 1999)

(a) If an item in this solicitation is identified as "brand name or equal," the purchase description reflects the characteristics and level of quality that will satisfy the Government's needs. The salient physical, functional, or performance characteristics that "equal" products must meet are specified in the solicitation.

(b) To be considered for award, offers of "equal" products, including "equal" products of the brand name manufacturer, must—

(1) Meet the salient physical, functional, or performance characteristic specified in this solicitation;

(2) Clearly identify the item by—

(i) Brand name, if any; and

(ii) Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modifications the offeror plans to make in a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modifications.

(c) The Contracting Officer will evaluate "equal" products on the basis of information furnished by the offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the offeror clearly indicates in its offer that the product being offered is an "equal" product, the offeror shall provide the brand name product referenced in the solicitation.

(End of provision)

[FR Doc. 99-15147 Filed 6-16-99; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 19, and 52

[FAC 97-12; FAR Case 98-011; Item III]

RIN 9000-A133

Federal Acquisition Regulation; SBA's 8(a) Business Development Program

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 (the Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement revisions made to Small Business Administration (SBA) regulations pertaining to its 8(a) Business Development (8(a)BD) Program.

DATES: Effective June 17, 1999.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before August 16, 1999 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. Address e-mail comments submitted via the Internet to: farcase.98-011@gsa.gov. Please cite FAC 97-12, FAR case 98-011 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. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-12, FAR case 98-011.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends FAR parts 12, 19, and 52 to conform to recent amendments made by the Small Business Administration (SBA) to their regulations pertaining to the 8(a)BD Program. The SBA published a final rule in the **Federal Register** on June 30, 1998 (63 FR 35726). The SBA rule amended the eligibility procedures for admission to the 8(a)BD and contractual assistance programs. These changes involve administrative matters concerning requirement offerings, contract execution, contract administration, and SBA appeals.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect the interim 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 the rule merely addresses changes made by the Small Business Administration (SBA) to 13 CFR parts 121, 124, and 134. The SBA has certified that the changes set forth in its rule will not have a significant economic impact on a substantial number of small entities because the changes do not increase the net number of current 8(a) certified small businesses or the net number of current 8(a) participants by more than 500 to 800 businesses, or less than 1 percent of all small businesses seeking Government contracts. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR subparts 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 98-011), in correspondence.

C. Paperwork Reduction Act

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

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 conform the Federal Acquisition Regulation to revisions made in 13 CFR parts 121, 124, and 134 pertaining to the Small Business Administration (SBA) 8(a)BD Program. The SBA final rule became effective on June 30, 1998. However, pursuant to Pub. L. 98-577 and FAR 1.501, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 12, 19, and 52

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 12, 19, and 52 as set forth below:

1. The authority citation for 48 CFR parts 12, 19, 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 12—ACQUISITION OF COMMERCIAL ITEMS

2. In section 12.102, amend paragraph (d)(3) by removing "or"; in (d)(4) by removing the period and adding "; or"; and add (d)(5) to read as follows:

12.102 Applicability.

* * * * *

(d) * * *

(5) Directly from another Federal agency.

PART 19—SMALL BUSINESS PROGRAMS

3. In section 19.101, amend paragraph (g)(2) by revising the paragraph heading and the first sentence, and adding a sentence to the end of the paragraph to read as follows:

19.101 Explanation of terms.

* * * * *

(g) * * *

(2) *Joint venture—acquisition and property sale assistance.* Concerns bidding on a particular acquisition or property sale as joint ventures are considered as affiliated and controlling or having the power to control each other with regard to performance of the contract. * * * The rules governing 8(a) Program joint ventures are described in 13 CFR 124.513.

* * * * *

4. Revise section 19.302(a) to read as follows:

19.302 Protesting a small business representation.

(a) An offeror, the SBA, or another interested party may protest the small business representation of an offeror in a specific offer. However, for competitive 8(a) contracts, the filing of a protest is limited to an offeror, the contracting officer, or the SBA.

* * * * *

5. In section 19.800, redesignate paragraph (d) as (e); and add new paragraphs (d) and (f) to read as follows:

19.800 General.

* * * * *

(d) The SBA refers to this program as the 8(a) Business Development (BD) Program.

* * * * *

(f) When SBA has delegated its 8(a) Program contract execution authority to an agency, the contracting officer must refer to its agency supplement or other policy directives for appropriate guidance.

19.802 [Amended]

6. Amend section 19.802 by revising the citation "13 CFR 124.101-113" to read "13 CFR 124.101-112".

7. In section 19.804-2, revise paragraphs (a)(5), (a)(8), (a)(9), and (a)(12) through (a)(14); redesignate paragraph (a)(15) as (a)(16), and add a new paragraph (a)(15) to read as follows:

19.804-2 Agency offering.

(a) * * *

(5) Any special restrictions or geographical limitations on the requirement (for construction, include the location of the work to be performed).

* * * * *

(8) The acquisition history, if any, of the requirement, including the names and addresses of any small business contractors that have performed this requirement during the previous 24 months.

(9) A statement that prior to the offering no solicitation for the specific acquisition has been issued as a small business or HUBZone set-aside and that no other public communication (such as a notice in the Commerce Business Daily) has been made showing the contracting agency's clear intention to set-aside the acquisition for small business or HUBZone small business concerns.

* * * * *

(12) Identification of all known 8(a) concerns, including HUBZone 8(a) concerns, that have expressed an interest in being considered for the specific requirement.

(13) Identification of all SBA field offices that have asked for the acquisition for the 8(a) Program.

(14) A request, if appropriate, that a requirement with an estimated contract value under the applicable competitive threshold be awarded as an 8(a) competitive contract (see 19.805-1(d)).

(15) A request, if appropriate, that a requirement with a contract value over the applicable competitive threshold be awarded as a sole source contract (see 19.805-1(b)).

* * * * *

8. Amend section 19.804-3 by revising paragraph (a); and adding paragraphs (c) and (d) to read as follows:

19.804-3 SBA acceptance.

(a) Upon receipt of the contracting agency's offer, the SBA will determine whether to accept the requirement for the 8(a) Program. The SBA's decision whether to accept the requirement will be transmitted to the contracting agency in writing within 10 working days of receipt of the offer if the contract is likely to exceed the simplified acquisition threshold and within 2 days of receipt if the contract is at or below the simplified acquisition threshold. The contracting agency may grant an extension of these time periods. If SBA does not respond to an offering letter within 10 days, the contracting activity may seek SBA's acceptance through the Associate Administrator (AA)/8(a)BD.

* * * * *

(c) For acquisitions not exceeding the simplified acquisition threshold, when the contracting activity makes an offer to the 8(a) Program on behalf of a specific 8(a) firm and does not receive a reply to its offer within 2 days, the contracting activity may assume the offer is accepted and proceed with award of an 8(a) contract.

(d) As part of the acceptance process, SBA will review the appropriateness of the SIC code designation assigned to the requirement by the contracting activity.

(1) SBA will not challenge the SIC code assigned to the requirement by the contracting activity if it is reasonable, even though other SIC codes may also be reasonable.

(2) If SBA and the contracting activity are unable to agree on a SIC code designation for the requirement, SBA may refuse to accept the requirement for the 8(a) Program, appeal the contracting officer's determination to the head of the agency pursuant to 19.810, or appeal the SIC code designation to the SBA Office of Hearings and Appeals under subpart C of 13 CFR part 134.

9. Revise section 19.804-4 to read as follows:

19.804-4 Repetitive acquisitions.

In order for repetitive acquisitions to be awarded through the 8(a) Program, there must be separate offers and acceptances. This allows the SBA to determine—

(a) Whether the requirement should be a competitive 8(a) award;

(b) A nominated firm's eligibility, whether or not it is the same firm that performed the previous contract;

(c) The effect that contract award would have on the equitable distribution of 8(a) contracts; and

(d) Whether the requirement should continue under the 8(a) Program.

10. Add sections 19.804-5 and 19.804-6 to read as follows:

19.804-5 Basic ordering agreements.

(a) The contracting activity must offer, and SBA must accept, each order under a basic ordering agreement (BOA) in addition to offering and accepting the BOA itself.

(b) SBA will not accept for award on a sole-source basis any order that would cause the total dollar amount of orders issued under a specific BOA to exceed the competitive threshold amount in 19.805-1.

(c) Once an 8(a) concern's program term expires, the concern otherwise exits the 8(a) Program, or becomes other than small for the SIC code assigned under the BOA, SBA will not accept new orders for the concern.

19.804-6 Multiple award and Federal Supply Schedule contracts.

(a) Separate offers and acceptances must not be made for individual orders under multiple award or Federal Supply Schedule (FSS) contracts. SBA's acceptance of the original multiple award or FSS contract is valid for the term of the contract.

(b) The requirements of 19.805-1 do not apply to individual orders that exceed the competitive threshold as long as the original contract was competed.

(c) An 8(a) concern may continue to accept new orders under a multiple award or FSS contract even after a concern's program term expires, the concern otherwise exits the 8(a) Program, or the concern becomes other than small for the SIC code assigned under the contract.

11. Amend section 19.805-1 in paragraph (a)(2) by removing "award price" and adding "total value" in its place; and revise paragraphs (b)(2) and (d) to read as follows:

19.805-1 General.

* * * * *

(b) * * *

(2) SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation.

* * * * *

(d) The SBA Associate Administrator for 8(a) Business Development (AA/8(a)BD) may approve an agency request for a competitive 8(a) award below the competitive thresholds. Such requests will be approved only on a limited basis and will be primarily granted where technical competitions are appropriate or where a large number of responsible 8(a) firms are available for competition. In determining whether a request to compete below the threshold will be approved, the AA/8(a)BD will, in part, consider the extent to which the requesting agency is supporting the 8(a)

Program on a noncompetitive basis. The agency may include recommendations for competition below the threshold in the offering letter or by separate correspondence to the AA/8(a)BD.

19.805-2 [Amended]

12. Amend section 19.805-2 as follows:

- a. Remove paragraph (a);
- b. Redesignate paragraphs (b) through (e) as (a) through (d), respectively;
- c. In new redesignated paragraph (a), remove the words "the SBA instructions provided under"; and
- d. In new redesignated paragraph (d), revise "13 CFR 124.111(c)" to read "13 CFR 124.517".

19.806 [Amended]

13. In section 19.806, amend paragraph (c) by adding "within 10 working days" after the word "price."

14. Revise section 19.808-2 to read as follows:

19.808-2 Competitive.

In competitive 8(a) acquisitions subject to part 15, the contracting officer conducts negotiations directly with the competing 8(a) firms. Conducting competitive negotiations among 8(a) firms prior to SBA's formal acceptance of the acquisition for the 8(a) Program may be grounds for SBA's not accepting the acquisition for the 8(a) Program.

15. Revise section 19.809 to read as follows:

19.809 Preaward considerations.

The contracting officer should request a preaward survey of the 8(a) contractor whenever considered useful. If the results of the preaward survey or other information available to the contracting officer raise substantial doubt as to the firm's ability to perform, the contracting officer must refer the matter to SBA for Certificate of Competency consideration under subpart 19.6.

16. Amend section 19.810 by revising paragraphs (a) and (b) to read as follows:

19.810 SBA appeals.

(a) The SBA Administrator may submit the following matters for determination to the agency head if the SBA and the contracting officer fail to agree on them:

- (1) The decision not to make a particular acquisition available for award under the 8(a) Program.
- (2) A contracting officer's decision to reject a specific 8(a) firm for award of an 8(a) contract after SBA's acceptance of the requirement for the 8(a) Program.
- (3) The terms and conditions of a proposed 8(a) contract, including the contracting activity's SIC code

designation and estimate of the fair market price.

(b) Notification of a proposed appeal to the agency head by the SBA must be received by the contracting officer within 5 working days after the SBA is formally notified of the contracting officer's decision. The SBA will provide the agency Director for Small and Disadvantaged Business Utilization a copy of this notification of the intent to appeal. The SBA must send the written appeal to the head of the contracting activity within 15 working days of SBA's notification of intent to appeal or the contracting activity may consider the appeal withdrawn. Pending issuance of a decision by the agency head, the contracting officer must suspend action on the acquisition. The contracting officer need not suspend action on the acquisition if the contracting officer makes a written determination that urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

* * * * *

17. In section 19.811-1, revise the last sentence in the introductory text of paragraph (c); and add paragraph (d) to read as follows:

19.811-1 Sole source.

* * * * *

(c) * * * Appropriate blocks on the Standard Form (SF) 26 or 1442 will be asterisked and a continuation sheet appended as a tripartite agreement which includes the following:

* * * * *

(d) For acquisitions not exceeding the simplified acquisition threshold, the contracting officer may use the alternative procedures in paragraph (c) of this subsection with the appropriate simplified acquisition forms.

19.811-2 [Amended]

18. Amend the introductory text of section 19.811-2(a) by adding "as a tripartite agreement" after the word "appended".

19. Amend section 19.812 by revising paragraph (d) to read as follows:

19.812 Contract administration.

* * * * *

(d) An 8(a) contract, whether in the base or an option year, must be terminated for convenience if the 8(a) concern to which it was awarded transfers ownership or control of the firm or if the contract is transferred or novated for any reason to another firm, unless the Administrator of the SBA waives the requirement for contract termination (13 CFR 124.515). The Administrator may waive the

termination requirement only if certain conditions exist. Moreover, a waiver of the requirement for termination is permitted only if the 8(a) firm's request for waiver is made to the SBA prior to the actual relinquishment of ownership or control, except in the case of death or incapacity where the waiver must be submitted within 60 days after such an occurrence. The clauses in the contract entitled "Special 8(a) Contract Conditions" and "Special 8(a) Subcontract Conditions" require the SBA and the 8(a) subcontractor to notify the contracting officer when ownership of the firm is being transferred. When the contracting officer receives information that an 8(a) contractor is planning to transfer ownership or control to another firm, the contracting officer must take action immediately to preserve the option of waiving the termination requirement. The contracting officer should determine the timing of the proposed transfer and its effect on contract performance and mission support. If the contracting officer determines that the SBA does not intend to waive the termination requirement, and termination of the contract would severely impair attainment of the agency's program objectives or mission, the contracting officer should immediately notify the SBA in writing that the agency is requesting a waiver. Within 15 business days thereafter, or such longer period as agreed to by the agency and the SBA, the agency head must either confirm or withdraw the request for waiver. Unless a waiver is approved by the SBA, the contracting officer must terminate the contract for convenience upon receipt of a written request by the SBA. This requirement for a convenience termination does not affect the Government's right to terminate for default if the cause for termination of an 8(a) contract is other than the transfer of ownership or control.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.219-18 [Amended]

20. Amend section 52.219-18 by revising the date of the clause to read "(JUNE 1999)"; by removing paragraph (a)(1) of the clause; and redesignating paragraphs (a)(2) and (a)(3) as (a)(1) and (a)(2), respectively.

[FR Doc. 99-15148 Filed 6-16-99; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 16

[FAC 97-12; FAR Case 98-007; Item IV]

RIN 9000-A108

Federal Acquisition Regulation;
Competition Under Multiple Award
Task and Delivery Order 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 (the Councils) have agreed on a final rule. The final rule amends the Federal Acquisition Regulation (FAR) to clarify the procedures governing placement of orders under multiple award indefinite-delivery contracts.

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph DeStefano, Procurement Analyst, at (202) 501-1758. Please cite FAC 97-12, FAR case 98-007.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the procedures for placing orders under multiple award contracts at FAR 16.505(b). The rule emphasizes that agencies must use only fair methods when placing orders. For example, the contracting officer must not employ allocation or designation of any preferred awardee(s) that would result in less than fair consideration being given to all awardees prior to placing each order.

The Councils published a proposed rule in the *Federal Register* at 63 FR 48416, September 9, 1998.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space

Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule merely amends the FAR to clarify the existing prohibition against allocation of orders placed under multiple award contracts.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 16

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 16 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).

2. Amend section 16.505 by revising paragraph (b)(1); by redesignating paragraphs (b)(2), (b)(3), and (b)(4) as (b)(4), (b)(5), and (b)(6), respectively and adding new paragraphs (b)(2) and (b)(3); and by revising newly designated paragraphs (b)(4)(i) and (b)(4)(ii) to read as follows:

16.505 Ordering.

* * * * *

(b) *Orders under multiple award contracts.* (1) Except as provided in paragraph (b)(4) of this section, for orders issued under multiple delivery order contracts or multiple task order contracts, each awardee must be provided a fair opportunity to be considered for each order in excess of \$2,500. In determining the procedures for providing awardees a fair opportunity to be considered for each order, contracting officers must exercise broad discretion. The contracting officer, in making decisions on the award of any individual task order, should consider factors such as—

- (i) Past performance on earlier tasks under the multiple award contract;
- (ii) Quality of deliverables;
- (iii) Cost control;
- (iv) Price;
- (v) Cost; or

(vi) Other factors that the contracting officer believes are relevant.

(2) In evaluating past performance on individual orders, the procedural requirements in subpart 42.15 are not mandatory.

(3) The contracting officer must set forth in the solicitation and contract the procedures and selection criteria that will be used to provide multiple awardees a fair opportunity to be considered for each order. The procedures for selecting awardees for the placement of particular orders need not comply with the competition requirements of part 6. However, methods, such as allocation or designation in any way of any preferred awardee(s), that would result in less than fair consideration being given to all awardees prior to placing each order, are prohibited. Formal evaluation plans or scoring of quotes or offers is not required. Agencies may use oral proposals and streamlined procedures when selecting an order awardee. In addition, the contracting officer need not contact each of the multiple awardees under the contract before selecting an order awardee if the contracting officer has information available to ensure that each awardee is provided a fair opportunity to be considered for each order.

(4) * * *

(i) The agency need for the supplies or services is so urgent that providing the opportunity would result in unacceptable delays;

(ii) Only one contractor is capable of providing the supplies or services at the level of quality required because the supplies or services are unique or highly specialized;

* * * * *

[FR Doc. 99-15149 Filed 6-16-99; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 36

[FAC 97-12; FAR Case 98-023; Item V]

RIN 9000-A134

Federal Acquisition Regulation;
Application of the Brooks Act

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 (the Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to remove a reference to the National Imagery and Mapping Agency (NIMA).

EFFECTIVE DATE: August 16, 1999.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-12, FAR case 98-023.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Part 36 to remove the reference to the National Imagery and Mapping Agency (NIMA) at FAR 36.601-4(a)(4). In accordance with Section 8101 of the National Defense Appropriations Act for Fiscal Year 1999 (Pub. L. 262), except for services critical to national security, NIMA must use the procedures in FAR Subpart 36.6 when using fiscal year 1999 funds to award contracts for mapping, charting, and geodesy activities, rather than the provisions in FAR Parts 13, 14, and 15. Therefore, although this is an annual appropriations requirement which affects NIMA only when using fiscal year 1999 funds, it is appropriate to remove the reference to NIMA as exemplifying the type of mapping services that must not be procured pursuant to FAR Subpart 36.6.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-12, FAR case 98-023), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information

collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 36

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 36 as set forth below:

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1. The authority citation for 48 CFR part 36 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).

36.601-4 [Amended]

2. Amend the fourth sentence of section 36.601-4(a)(4) by removing the words "such as those typically performed by the National Imagery and Mapping Agency".

[FR Doc. 99-15150 Filed 6-16-99; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAC 97-12; FAR Case 98-306; Item VI]

RIN 9000-AI37

Federal Acquisition Regulation; Restrictions on the Acquisition of Information Technology

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 (the Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Division A, Section 101(h), Title VI, section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999. **EFFECTIVE DATE:** June 17, 1999.

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

status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-12, FAR case 98-306.

SUPPLEMENTARY INFORMATION:

A. Background

Division A, Section 101(h), Title VI, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999 (Pub. L. 105-277) was effective upon its enactment on October 21, 1998. Section 622 provides that agencies may not use appropriated funds to acquire information technology that does not comply with FAR 39.106, unless the agency's Chief Information Officer (CIO) determines that noncompliance with 39.106 is necessary to the function and operation of the agency or the acquisition is required by a contract in effect before October 21, 1998. The CIO must send to the Office of Management and Budget any waivers granted.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-12, FAR case 98-306), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 39

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 39 as set forth below:

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

1. The authority citation for 48 CFR part 39 continues to read as follows:

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

2. Amend section 39.101 by designating the existing paragraph as “(b)”, and adding paragraph (a) to read as follows:

39.101 Policy.

(a) Division A, Section 101(h), Title VI, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999 (Pub. L. 105-277) requires that agencies may not use appropriated funds to acquire information technology that does not comply with 39.106, unless the agency’s Chief Information Officer determines that noncompliance with 39.106 is necessary to the function and operation of the agency or the acquisition is required by a contract in effect before October 21, 1998. The Chief Information Officer must send to the Office of Management and Budget a copy of all waivers for forwarding to Congress.

* * * * *

[FR Doc. 99-15151 Filed 6-16-99; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 9, 12, 19, 22, 31, 42, 52, and 53

[FAC 97-12; Item VII]

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 17, 1999.

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

List of Subjects in 48 CFR Parts 1, 9, 12, 19, 22, 31, 42, 52, and 53

Government procurement.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 9, 12, 19, 22, 31, 42, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 1, 9, 12, 19, 22, 31, 42, 52, and 53 continues to read as follows:

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

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Amend section 1.106 in the table following the introductory paragraph by—

a. Removing the FAR segment entries at 28.106-1(e) and 28.106-1(n) and their corresponding OMB Control Numbers;

b. Revising the FAR segment entry “52.223-8” to read “52.223-9”;

c. At entry 52.228-2 by removing “and 9000-0119”;

e. At entry 52.228-16 by removing “and 9000-0119”; and

f. Adding entry 52.228-12 to read as follows::

1.106 OMB approval under the Paperwork Reduction Act.

FAR segment	OMB Control No.
* * * * *	
52.228-12	9000-0135
* * * * *	

PART 9—CONTRACTOR QUALIFICATIONS

9.505 [Amended]

3. Amend section 9.505 in paragraph (b)(1) by removing “(as defined in 3.104-3)”.

PART 12—ACQUISITION OF COMMERCIAL ITEMS 12.301 [Amended]

4. Amend section 12.301 in the first sentence of paragraph (b)(3) by revising the parenthetical to read “(see Block 27, SF 1449)”.

PART 19—SMALL BUSINESS PROGRAMS

19.803 [Amended]

5. Amend section 19.803 by revising the parenthetical at the end of paragraph (c) to read “(but see 19.800(e)).”

19.806 [Amended]

6. Amend section 19.806 in the second sentence of paragraph (a) by removing the word “certified”.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

7. Revise section 22.609 to read as follows:

22.609 Regional jurisdictions of the Department of Labor, Wage and Hour Division.

Geographic jurisdictions of the following regional offices of the DoL, Wage and Hour Division, are shown here, and contracting officers should contact them in all situations required by this subpart, unless otherwise specified:

(a) The Region I and Region II office located in New York, New York, has jurisdiction for Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands.

(b) The Region III office located in Philadelphia, Pennsylvania, has jurisdiction for Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

(c) The Region IV office located in Atlanta, Georgia, has jurisdiction for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(d) The Region V and Region VII office located in Chicago, Illinois, has jurisdiction for Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

(e) The Region VI and Region VIII office located in Dallas, Texas, has jurisdiction for Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.

(f) The Region IX and Region X office located in San Francisco, California, has jurisdiction for Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205-6 [Amended]

8. Amend section 31.205-6 in the second sentence of paragraph (o)(6) by removing the word “certified”.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.203 [Amended]

9. Amend section 42.203 in the third sentence by removing “DCMC-AQBF” and adding “DCMCC-F”, and revising the ZIP code to read “22060-6221”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.204-6 [Amended]

10. Amend section 52.204-6 by revising the provision date to read "(JUNE 1999)"; and by removing from the first sentence of paragraph (c) of the provision "http://www.dnb.com/" and adding "http://www.customerservice@dnb.com" in its place.

52.212-1 [Amended]

11. Amend section 52.212-1 by revising the provision date to read "(JUNE 1999)"; and by removing from the next-to-the-last sentence in paragraph (j) of the provision "http://www.dnb.com/" and adding "http://www.customerservice@dnb.com" in its place.

52.212-3 [Amended]

12. Amend section 52.212-3 by revising the provision date to read "(JUNE 1999)"; and by removing ", □ is not" from paragraph (c)(4) of the provision.

52.213-4 [Amended]

13. Amend section 52.213-4 by—
 a. Revising the clause date to read "(JUNE 1999)";
 b. In paragraph (a)(2)(vi) of the clause by revising "(OCT 1995)" to read "(DEC 1998)";
 c. In paragraph (a)(2)(vii) of the clause by revising "(OCT 1995)" to read "(OCT 1998)";
 d. In paragraph (b)(1)(ii) of the clause by revising "(APR 1984)" to read "(FEB 1999)"; and
 e. In (b)(1)(v) of the clause by revising "(APR 1998)" to read "(JAN 1999)".

14. Amend section 52.215-2 by revising the date of the clause, to read "(June 1999)", revising paragraphs (f)(1) and (f)(2) of the clause, and Alternate III to read as follows:

52.215-2 Audit and Records—Negotiation.

* * * * *

Audit and Records—Negotiation (June 1999)

* * * * *

(f) * * *

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

* * * * *

Alternate III (June 1999). As prescribed in 15.209(b)(4), delete paragraph (d) of the basic clause and redesignate the remaining paragraphs accordingly, and substitute the following paragraph (e) for the redesignated paragraph (e) of the basic clause:

(e) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), and (d) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

52.219-1 [Amended]

15. Amend section 52.219-1 in the introductory text of Alternate I by revising "19.307(a)(1)" to read "19.307(a)(2)".

52.219-8 [Amended]

16. Amend section 52.219-8 by revising the date of the clause to read "(JUNE 1999)"; and by removing from paragraph (c)(4)(ii) of the clause "women; and" and adding "women." in its place.

17. Amend section 52.219-14 by revising the introductory paragraph to read as follows:

52.219-14 Limitations on Subcontracting.

As prescribed in 19.508(e) or 19.811-3(e), insert the following clause:

* * * * *

52.219-22 [Amended]

18. Amend section 52.219-22 in the introductory text of Alternate I by revising "19.306(b)" to read "19.307(b)".

PART 53—FORMS

53.214 [Amended]

19. Amend section 53.214 in paragraph (c) by removing the last sentence.

53.215-1 [Amended]

20. Amend section 53.215-1 in paragraph (c) by removing the last sentence.

[FR Doc. 99-15152 Filed 6-16-99; 8:45 am]

BILLING CODE 6820-EP-P

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. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 97-12 which amend the FAR. The rule marked with an asterisk (*) indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 97-12 which precedes this document. These documents are also available via the Internet at <http://www.arnet.gov/far>.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501-4225.

LIST OF RULES IN FAC 97-12

Item	Subject	FAR case	Analyst
I	Taxpayer Identification Numbers	97-003	Olson.
II	* Use of Brand Name Item Descriptions	96-018	Moss.
III	SBA's 8(a) Business Development Program (Interim)	98-011	Moss.
IV	Competition Under Multiple Award Task and Delivery Order Contracts	98-007	DeStefano.
V	Application of the Brooks Act	98-023	O'Neill

LIST OF RULES IN FAC 97-12—Continued

Item	Subject	FAR case	Analyst
VI	Restrictions on the Acquisition of Information Technology	98-306	Nelson.

Item I—Taxpayer Identification Numbers (FAR Case 97-003)

The interim rule published as Item I of the FAC 97-09 is converted to a final rule without change. The rule amends FAR Parts 1, 4, 13, 14, 15, and 52 to implement Subsection (i) of the Debt Collection Improvement Act of 1996 and Section 1022 of the Taxpayer Relief Act of 1997; and to clarify the Government requirements for reporting contract and payment information to the Internal Revenue Service (IRS).

Item II—Use of Brand Name Item Descriptions (FAR Case 96-018)

This final rule amends FAR Parts 11, 37, and 52 to clarify guidance for the use of brand name purchase descriptions.

Item III—SBA’s 8(a) Business Development Program (FAR Case 98-011)

This interim rule amends FAR Parts 12, 19, and 52 to implement changes made in the Small Business

Administration’s 8(a) Business Development (8(a)BD) Program regulation contained in 13 CFR parts 121, 124, and 134 regarding the eligibility procedures for admission to the 8(a)BD and contractual assistance programs.

Item IV—Competition Under Multiple Award Task and Delivery Order Contracts (FAR Case 98-007)

This final rule amends the procedures for placing orders under multiple award contracts at FAR 16.505(b). The amendment emphasizes that agencies shall use only fair methods when placing orders. For example, the contracting officer shall not employ allocation or designation of any preferred awardee(s) that would result in less than fair consideration being given to all awardees prior to placing each order.

Item V—Application of the Brooks Act (FAR Case 98-023)

This final rule amends FAR Part 36 to remove the reference to the National

Imagery and Mapping Agency (NIMA) at FAR 36.601-4(a)(4).

Item VI—Restrictions on the Acquisition of Information Technology (FAR Case 98-306)

This final rule revises FAR 39.101 to implement Division A, Section 101(h), Title VI, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999. Section 622 provides that no appropriated funds may be used to acquire information technology that does not comply with FAR 39.106, unless the agency’s Chief Information Officer (CIO) determines that noncompliance with 39.106 is necessary to the function and operation of the agency or the acquisition is required by a contract in effect before October 21, 1998.

Dated: June 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.
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