



# Federal Register

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Wednesday,  
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## Part II

**Department of  
Defense**

**General Services  
Administration**

**National Aeronautics  
and Space  
Administration**

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48 CFR Parts 1, 2, et al.

**Federal Acquisition Regulations; Final and  
Interim Rules**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**Federal Acquisition Circular 2001–16; 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 agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2001–16. 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 2001–16 and specific FAR case number(s). Interested parties may also visit our Web site at <http://www.arnet.gov/far>.

Item	Subject	FAR case	Analyst
I .....	Central Contractor Registration .....	2002–018	Parnell.
II .....	Electronic Commerce in Federal Procurement .....	1997–304	Davis.
III .....	Unique Contract and Order Identifier Numbers (Interim) .....	2002–025	Zaffos.
IV .....	Procurements for Defense Against or Recovery From Terrorism or Nuclear, Biological, Chemical or Radiological Attack; and Temporary Emergency Procurement Authority.	2002–026 2002–003	Zaffos.
V .....	Notification of Overpayment, Contract Financing Payments .....	2001–005	Parnell.
VI .....	Caribbean Basin Country—Dominican Republic .....	2003–006	Davis.
VII .....	Prohibited Sources .....	2001–015	Davis.
VIII .....	Economic Planning, Employee Morale, and Travel Cost Principles .....	2002–001	Loeb.
IX .....	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.

FAC 2001–16 amends the FAR as specified below:

**Item I—Central Contractor Registration (FAR Case 2002–018)**

This final rule amends FAR parts 1, 2, 4, 13, 32, and 52 to require contractor registration in the Central Contractor Registration (CCR) database prior to award of any contract, basic agreement, basic ordering agreement, or blanket purchase agreement on or after October 1, 2003. In addition, the rule requires contracting officers to modify existing contracts whose period of performance extends beyond December 31, 2003, to require contractors to register in the CCR database by December 31, 2003.

**Item II—Electronic Commerce in Federal Procurement (FAR Case 1997–304)**

This final rule implements section 850 of the National Defense Authorization Act for Fiscal Year 1998, Public Law 105–85, and section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398. Section 850 amends titles 10, 15, 40, and 41 of the

United States Code to eliminate the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) computer architecture. Section 810 amends 41 U.S.C. 416 and 15 U.S.C. 637 to allow solicitation notices to be published via a single Governmentwide point of entry on the Internet designated in the FAR or via the Commerce Business Daily (CBD). The objectives of the rule are (1) to designate a single Governmentwide point of entry on the Internet, <http://www.fedbizopps.gov>, where agencies are required to provide convenient and universal public access to information on their procurement opportunities, and (2) to require electronic access to notices of solicitation through the single Governmentwide point of entry as a replacement for paper (or electronic) publication in the CBD.

**Item III—Unique Contract and Order Identifier Numbers (FAR Case 2002–025)**

This interim rule amends the FAR to require each reporting agency to assign a unique procurement instrument identifier (PIID) for every contract, purchase order, BOA, Basic Agreement, and BPA reported to the Federal Procurement Data System; and to have in place, no later than October 1, 2003, a process that will ensure that each PIID reported to FPDS is unique,

Governmentwide, and will remain so for at least 20 years from the date of contract award.

**Item IV—Procurements for Defense Against or Recovery From Terrorism or Nuclear, Biological, Chemical or Radiological Attack, and Temporary Emergency Procurement Authority (FAR Cases 2002–026 and 2002–003)**

This rule finalizes interim rules 2002–026 and 2002–003, which increased the amount of the micro-purchase threshold and the simplified acquisition threshold and provide expanded access to streamlined procedures for procurements of supplies or services by or for an executive agency that are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

This final rule also amends the FAR to add the querying of commercial databases that provide information relevant to the agency acquisition as a technique for conducting market research.

**Item V—Notification of Overpayment, Contract Financing Payments (FAR Case 2001–005)**

This final rule amends FAR parts 12, 32, and 52 to require the contractor to notify the contracting officer if the Government overpays when making an invoice payment or a contract financing

payment under either a commercial item or a noncommercial item contract.

**Item VI—Caribbean Basin Country—Dominican Republic (FAR Case 2003–006)**

This final rule amends FAR 25.003, 25.400, and the clauses at FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Commercial Items, and FAR 52.225–5, Trade Agreements, to implement the direction of the USTR to reinstate the treatment of certain products of the Dominican Republic as eligible products under acquisitions subject to the Trade Agreements Act, as published by the USTR in the Federal Register at 68 FR 27883, May 21, 2003. This change will allow Government purchase of products originating in the Dominican Republic that are not excluded from duty-free treatment under 19 U.S.C. 2703(b), unless otherwise restricted by law.

**Item VII—Prohibited Sources (FAR Case 2001–015)**

This final rule removes Serbia, the Taliban-controlled regions of Afghanistan, and Iraq from the list of prohibited sources and points the contracting officer to lists of entities and individuals subject to economic sanctions that are available at <http://www.epls.gov/TerList1.html>. The contracting officer is no longer authorized in unusual circumstances to acquire for use outside the United States supplies or services restricted by this section, unless specifically authorized by the OFAC. However, OFAC has granted authority to Department of Defense personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by OFAC.

**Item VIII—Economic Planning, Employee Morale, and Travel Costs Principles (FAR Case 2002–001)**

This final rule amends the FAR to revise three cost principles: (1) FAR 31.205–12, Economic planning costs; (2) FAR 31.205–13, Employee morale, health, welfare, food service, and dormitory costs and credits; and (3) FAR 31.205–46, Travel costs. The changes restructure the paragraphs and remove unnecessary and duplicative language to increase clarity and readability. The rule does not change the allowability of costs. The case was initiated to consider suggestions made at a series of public meetings. This rule is of particular interest to contractors and contracting

officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, e.g., price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

**Item IX—Technical Amendments**

This amendment makes editorial changes at FAR 8.404(b)(6) and 24.202(a).

Dated: September 24, 2003.

**Laura G. Auletta,**  
*Director, Acquisition Policy Division.*

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC) 2001–16 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 2001–16 are effective October 31, 2003, except for Items I, II, III, IV, and IX, which are effective October 1, 2003.

Dated: September 22, 2003.

**Deidre A. Lee,**  
*Director, Defense Procurement and Acquisition Policy.*

Dated: September 23, 2003.

**David A. Drabkin,**  
*Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.*

Dated: September 15, 2003.

**Tom Luedtke,**  
*Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

[FR Doc. 03–24581 Filed 9–30–03; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 2, 4, 13, 32, and 52**

**[FAC 2001–16; FAR Case 2002–018; Item I]**

**RIN 9000–AJ61**

**Federal Acquisition Regulation; Central Contractor Registration**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to require registration of contractors in the Central Contractor Registration (CCR) database prior to award of any contract, basic agreement, basic ordering agreement, or blanket purchase agreement. In addition, the rule requires contracting officers to modify existing contracts whose period of performance extends beyond December 31, 2003, to require contractors to register in the CCR database by December 31, 2003. The rule also revises the source list of supplies in the FAR (*see* Simplified Acquisition Procedures) to reflect statutory changes.

**DATES:** *Effective Date:* October 1, 2003.

*Applicability Date:* This final rule applies to contracts, basic agreements, basic ordering agreements, blanket purchase agreements, or modifications awarded on or after October 1, 2003. Existing contracts, basic agreements, basic ordering agreements, or blanket purchase agreements with a period of performance beyond December 31, 2003, are also covered by this final rule and must be modified pursuant to FAR 4.1103.

**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. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAC 2001–16, FAR case 2002–018.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This rule amends the FAR to require contractor registration in the Central Contractor Registration (CCR) database prior to award of any contract, basic agreement, basic ordering agreement, or blanket purchase agreement. In addition, the rule requires contracting officers to modify existing contracts whose period of performance extends beyond December 31, 2003, to require contractors to register in the CCR database by December 31, 2003.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 16366, April 3, 2003, with a request for comments. Thirty-one respondents submitted 106 comments. The following discussion of the comments is provided:

1. The proposed rule requires registration of contractors in the CCR

database for new awards and modifications to existing contracts by September 30, 2003.

*Comment:* A number of respondents recommended some sort of transition period.

*Response:* Concur that there should be a short transition period. Departments and agencies were informed in OMB letters in mid-2001 that the CCR was a goal under the President's Management Agenda. For existing contracts and agreements, the final rule allows agencies until December 31, 2003, or sooner, to accomplish the transition to CCR so that they may still fulfill, in a timely fashion, an important objective of the integrated acquisition initiative, *i.e.*, to eliminate repetitive vendor registration.

2. Unless one of the exceptions applies, the rule applies to contractors with new contracts and existing contracts.

*Comment:* A number of respondents did not believe that it was in the best interest of the Government to require existing contracts to be modified to include the CCR registration requirement. One respondent suggested a "grandfathering" of existing contracts.

*Response:* Do not concur. Modification of current contracts benefits both the Government and contractors, by eliminating the need to maintain paper-based sources of contract information, by enabling contractors to update their information in one place via a website, and by allowing contracting officers to access contractor data and industry information less expensively, and more efficiently identify sources for contracting opportunities. Since other systems are using CCR data, modifications will ensure that the correct information provided by the vendor is used. Wholesale "grandfathering" is not considered an option as it would defeat one reason for CCR; *i.e.*, having one accurate and complete database for intergovernmental use.

3. Unless one of the exceptions applies, the rule requires small entities to register in CCR before contract award.

*Comment:* A number of respondents voiced concern regarding small businesses not having access to computers, refusing to register, not accepting payment by EFT. The possibility of an alternative procedure regarding small contractors was proposed.

*Response:* Partially concur. Language was added to the exceptions to cover micropurchases that do not use the electronic funds transfer (EFT) method and are not required to be reported.

Additional changes were not considered necessary. As a general matter, this rule benefits small businesses since the CCR requirement (1) simplifies and streamlines the procurement process by eliminating redundant requirements and processes, and (2) increases visibility of contractor sources for specific supplies and services. Contractors have been encouraged for years to utilize the public resources available to them when they do not have Internet access themselves. In addition, since 1998, the DoD has required small and large businesses to register in the CCR database, with no apparent negative impact to small businesses. One respondent concluded the rule would save small business time and money by facilitating paperless procurement and payment through electronic funds transfers.

4. The rule at FAR 4.1102(a)(1) through (a)(5) provides for exceptions when CCR registration is not required.

*Comment:* A variety of suggestions were made in this area—adding exceptions for Status of Forces Agreement (SOFA) family members performing work OCONUS; contracts whose period of performance will not extend beyond September 30, 2003; waivers to recognize the occasional need to contract with a sole source; including a dollar threshold. Several respondents requested clarification of the term purchasing mechanism". While other respondents requested that the exception listed in paragraph (a)(5) concerning foreign vendors be expanded to include all awards to foreign vendors for work performed outside the U.S. In addition, two respondents pointed out that the exception in paragraph (a)(5) implies registration of foreign vendors is required after award.

*Response:* Changes were made to 4.1102(a)(1), (a)(2), and (a)(5). Paragraph (a)(1) was revised to read, "Purchases that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card only as a payment method." With this change, a threshold exception was considered unnecessary as this could include many micro-purchases. Paragraph (a)(2) was revised to delete the words "or purchases" since the FAR defines "classified contracts", while paragraph (a)(5) was revised to delete the words "before award". However, the Councils believe that an attempt to register foreign vendors should be made. Many foreign vendors are currently registered.

5. The Paperwork Burden Statement in the **Federal Register** notice of the proposed rule.

*Comment:* Two respondents questioned the subject paragraph; *i.e.*, the estimated respondents are too low (54,199) and the total burden hours (54,199) are too low; and the 1 hour estimate to complete the information is too low.

*Response:* No change. When drafted, the burden for this rule was to represent only new transactions. The numbers were provided by FPDS and represent new transactions for the year 2001 over \$25,000. A DoD clearance (OMB Control No. 0704-0400) provides for the current 226,000 enrolled in the CCR.

6. The Central Contractor Registration. Comments pertaining to the system, not the rule.

*Comment:* A variety of comments were received that related to the CCR and not to the rule. Examples of these comments include: Adding additional fields to the CCR; Confusion between the words Business Partner Network, CCR, and Federal Registration; Problems obtaining DUNS numbers; CCR as an unfunded mandate for agencies; Concerns that the financial community have implementing the requirement; The cost of using the CCR, both for the contractor and agency; and how agencies will be informed if contractors make changes to the information contained in the CCR.

*Response:* No change to the rule. The Councils considered these comments outside the scope of the case.

7. Individual comments and concerns that resulted in no change to the rule.

*Comment:* A variety of comments were received under this category. Examples of these comments include: Proposed revisions to the FAR clauses at 52.204-7 and 52.212-4(t) that reduces contractor liability for incorrect information; Will contractors be required to provide banking information?; Suspend rule for 90 days to convene a public meeting; Suggestion that each company elect to have a single annual renewal date for all its CCR registrations; Can COs require contractors with existing contracts to register in CCR?; What type of modification is required to amend existing contracts?; What happens if a contractor refuses to register; and who verifies the information in CCR?

*Response:* No change to the rule. The Councils did not believe the comments included under this category required changes to the rule.

8. Editorial changes to the rule.

*Comment:* A variety of comments offered editorial changes to the rule as follows:

1. A variety of editorials, including typos and updating references.

2. New telephone numbers for D&B.

3. Deletion of an incorrect e-mail address at the FAR provision at 52.204-6(c).

4. A revision to FAR 13.102 to emphasize the use of the CCR database.

5. Changes to the definitions of DUNS number and DUNS+4 at FAR 2.101 and 52.204-7(a). Changes were also made to FAR 52.204-6(b)(2), 52.204-7(c), and 52.212-1(j) to clarify and correct information related to D&B and to obtaining DUNS numbers.

6. A revision to FAR 52.204-7(c) to include a verification timeframe of "normally takes less than 48 hours."

7. A revision to FAR 13.201(d) to add a reference to 4.1104.

8. A revision to FAR 4.1104 to delete a redundant phrase.

9. A revision to FAR 52.212-4(t) to include language that addresses novation and change of name agreements included in FAR 52.204-7(g)(2).

10. A revision to FAR 4.203(e) and 4.905 to preclude furnishing information that may be required by CCR.

*Response:* The rule reflects editorial revisions.

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 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 imposes a reporting, recordkeeping, or other compliance requirements. All small entities will be subject to the rule unless their contract, basic agreements, basic ordering agreement, or blanket purchase agreement falls within one of the six exceptions. A Final Regulatory Flexibility Analysis (FRFA) has been prepared and is as follows:

### Final Regulatory Flexibility Analysis—FAR Case 2002-018, Central Contractor Registration

This Final Regulatory Flexibility Analysis has been prepared consistent with the criteria of 5 U.S.C. 604.

1. *Description of the reasons why action by the agency is being considered.*

In an effort to broaden use and reliance upon e-business applications, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are working with the Office of Federal Procurement Policy to eliminate the need to maintain paper-based sources of contractor information. The Central Contractor Registration (CCR) System is a centrally

located, searchable database, accessible via the Internet to develop, maintain, and provide sources for future procurements. The CCR data is the most up to date and complete data available. As a single validated source of data on contractors doing business with the Government, the CCR database enables prospective contractors to update their information in one place via a web site (<http://www.CCR.gov>). The information is then available via the Internet. Contracting officers will now be able to access contractor data and industry information less expensively, and more efficiently identify sources for contracting opportunities. This rule will not create a total electronic commerce environment, but will help provide a basic framework or foundation that will allow migration to a total electronic commerce environment. There are other projects that are completed (FedBizOpps) or in the planning stages, which are complementary and will also become part of the total electronic commerce initiative.

2. *Summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.*

No comments were received in response to the Initial Regulatory Flexibility Analysis for this rule.

3. *Description of, and, where feasible, estimate of the number of small entities to which the proposed rule will apply.*

To date, no supporting data has been collected; therefore, there is no available estimate of the number of small businesses that will be subject to the rule. However, some agencies (*e.g.*, DoD) already require contractors to register in the CCR and there does not appear to be any adverse impact on small business. Based on Governmentwide data, approximately 42,675 small businesses were awarded contracts of \$25,000 or more in fiscal year 2001. It is estimated that a majority of them will be subject to the rule. Many of these businesses are already among the over 200,000 registrants in CCR. Information is not available to identify the additional number of small businesses that were awarded contracts of less than \$25,000, or were awarded basic agreements, basic ordering agreements, or blanket purchase agreements.

4. *Description of projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.*

This rule imposes a reporting, recordkeeping, or other compliance requirements. However, this requirement will be significantly reduced from that currently required. Existing regulations require contractors to submit duplicate information each time they enter into contracts and certain types of agreements with the Government. This rule eliminates this duplication so that information the Government needs to do business with a contractor will be collected once (with

periodic update by the contractor) for use many times. All small entities will be subject to the rule unless their contract, basic agreements, basic ordering agreements, or blanket purchase agreements fall within one of the six exceptions. A contractor's administrative or financial personnel, who have general knowledge of the contractor's business, including the contractor's bank account and financial agent, may register by providing the pertinent information into the CCR database.

5. *Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.*

There are no significant practical alternatives that will accomplish the objective of this rule. Continued reliance on a paper-based system would unnecessarily promote inefficiency associated with paper-based processes. The successful phase-out of the paper-based *Commerce Business Daily* in favor of reliance on FedBizOpps demonstrates that the Federal contracting community, including small businesses, is successfully transitioning to greater use of electronic tools and their associated efficiencies to conduct business.

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 from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR parts 1, 2, 4, 13, 32, and 52 in accordance with 5 U.S.C. 610.

Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001-16, FAR case 2002-018), in correspondence.

## C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) applies because the final rule contains information collection requirements. The paperwork burden analysis takes into account the burden required for information current, complete and accurate and the burden required for new registrants to review instructions, search existing data sources, gather and maintain the data needed, and completing and reviewing the collection of information. Accordingly, the FAR Secretariat has forwarded a request for approval of the increased information collection requirement, OMB Control Number 9000-0159, concerning FAR Case 2002-018, Central Contractor Registration, to the Office of Management and Budget. Public comments concerning this request will be invited through a subsequent **Federal Register** notice.

**List of Subjects in 48 CFR Parts 1, 2, 4, 13, 32, and 52**

Government procurement.  
Dated: September 24, 2003.

**Laura G. Auletta,**  
*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 4, 13, 32, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 4, 13, 32, and 52 is revised 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM**

**1.106 [Amended]**

■ 2. Amend section 1.106 in the table following the introductory paragraph by adding FAR segments “52.204–7”, “52.212–1(k)”, and “52.212–4(t)” and corresponding OMB Control Numbers “9000–0159”, respectively.

**PART 2—DEFINITIONS OF WORDS AND TERMS**

■ 3. Amend section 2.101(b) by adding, in alphabetical order, the definitions “Central Contractor Registration (CCR) database”, “Data Universal Numbering System (DUNS) number”, “Data Universal Numbering System +4 (DUNS+4) number”, and “Registered in the CCR database” to read as follows:

**2.101 Definitions.**

\* \* \* \* \*

(b) \* \* \*

*Central Contractor Registration (CCR) database* means the primary Government repository for contractor information required for the conduct of business with the Government.

\* \* \* \* \*

*Data Universal Numbering System (DUNS) number* means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B), to identify unique business entities.

*Data Universal Numbering System +4 (DUNS+4) number* means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see subpart 32.11) for the same concern.

\* \* \* \* \*

*Registered in the CCR database* means that—

(1) The contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated mandatory data fields and has marked the record “Active”.

\* \* \* \* \*

**PART 4—ADMINISTRATIVE MATTERS**

■ 4. Amend section 4.203 by revising the introductory text of paragraph (e)(1) to read as follows:

**4.203 Taxpayer identification information.**

\* \* \* \* \*

(e) \* \* \*

(1) Each contracting officer that issues a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) shall provide to contracting officers placing orders under the agreement or contract (if the contractor is not required to provide this information to a central contractor registration database)—

\* \* \* \* \*

■ 5. Amend section 4.603 by revising paragraph (a) to read as follows:

**4.603 Solicitation provisions.**

(a) Insert the provision at 52.204–6, Data Universal Numbering System (DUNS) Number, in solicitations that—

(1) Are expected to result in a requirement for the generation of an SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report (see 4.602(c)), or a similar agency form; and

(2) Do not contain the clause at 52.204–7, Central Contractor Registration.

\* \* \* \* \*

■ 6. Revise section 4.905 to read as follows:

**4.905 Solicitation provision.**

The contracting officer shall insert the provision at 52.204–3, Taxpayer Identification, in solicitations that—

(a) Do not include the clause at 52.204–7, Central Contractor Registration; and

(b) Are not conducted under the procedures of part 12.

■ 7. Add subpart 4.11 to read as follows:

**Subpart 4.11—Central Contractor Registration**

Sec.

- 4.1100 Scope.
- 4.1101 Definitions.
- 4.1102 Policy.
- 4.1103 Procedures.
- 4.1104 Solicitation provision and contract clauses.

**4.1100 Scope.**

This subpart prescribes policies and procedures for requiring contractor registration in the Central Contractor Registration (CCR) database, a part of the Business Partner Network (BPN) to—

(a) Increase visibility of vendor sources (including their geographical locations) for specific supplies and services; and

(b) Establish a common source of vendor data for the Government.

**4.1101 Definitions.**

As used in this subpart—

*Agreement* means basic agreement, basic ordering agreement, or blanket purchase agreement.

*Business Partner Network* means an integrated electronic infrastructure the Government uses to manage (*i.e.*, collect, validate, access and maintain) the information it needs to transact business with its contractors.

**4.1102 Policy.**

(a) Prospective contractors shall be registered in the CCR database prior to award of a contract or agreement, except for—

(1) Purchases that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card only as a payment method;

(2) Classified contracts (*see* 2.101) when registration in the CCR database, or use of CCR data, could compromise the safeguarding of classified information or national security;

(3) Contracts awarded by—

(i) Deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(7); or

(ii) Contracting officers in the conduct of emergency operations, such as responses to natural or environmental disasters or national or civil emergencies, *e.g.*, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121);

(4) Contracts to support unusual or compelling needs (*see* 6.302–2);

(5) Awards made to foreign vendors for work performed outside the United States, if it is impractical to obtain CCR registration; and

(6) Micro-purchases that do not use the electronic funds transfer (EFT) method for payment and are not required to be reported (*see* subpart 4.6).

(b) If practical, the contracting officer shall modify the contract or agreement

awarded under paragraph (a)(3) or (a)(4) of this section to require CCR registration.

(c)(1)(i) If a contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the contractor shall provide the responsible contracting officer a minimum of one business day's written notification of its intention to change the name in the CCR database; comply with the requirements of Subpart 42.12; and agree in writing to the timeline and procedures specified by the responsible contracting officer. The contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the contractor fails to comply with the requirements of paragraph (g)(1)(i) of the clause at 52.204-7, Central Contractor Registration, or fails to perform the agreement at 52.204-7(g)(1)(i)(3), and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the contractor to be other than the contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of the contract.

(2) The contractor shall not change the name or address for electronic funds transfer payments (EFT) or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see subpart 32.8, Assignment of Claims).

(3) Assignees shall be separately registered in the CCR database. Information provided to the contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of the contract.

**4.1103 Procedures.**

(a) Unless the acquisition is exempt under 4.1102, the contracting officer—

(1) Shall verify that the prospective contractor is registered in the CCR database (see paragraph (b) of this section) before awarding a contract or agreement;

(2) Should use the DUNS number or, if applicable, the DUNS+4 number, to verify registration—

(i) Via the Internet at <http://www.ccr.gov>;

(ii) By calling toll-free: 1-888-227-2423, commercial: (269) 961-5757, or Defense Switched Network (DSN) (used at certain Department of Defense locations): 932-5757; or

(iii) As otherwise provided by agency procedures; and

(3) Shall modify a contract or agreement that does not already include the requirement to be registered in the CCR database and maintain registration until final payment, and whose period of performance extends beyond December 31, 2003—

(i) To incorporate, as appropriate, the clause at 52.204-7, Central Contractor Registration, and its Alternate I, or, for a contract for commercial items, an addendum to 52.212-4, Contract Terms and Conditions—Commercial Items, that requires the contractor to be registered in the CCR database by December 31, 2003, and maintain registration until final payment; and

(ii) In sufficient time to permit CCR registration by December 31, 2003.

(b) Need not verify registration before placing an order or call if the contract or agreement includes the clause at 52.204-7, or 52.212-4(t), or a similar agency clause.

(c) If the contracting officer, when awarding a contract or agreement, determines that a prospective contractor is not registered in the CCR database and an exception to the registration requirements for the award does not apply (see 4.1102), the contracting officer shall—

(1) If the needs of the requiring activity allow for a delay, make award after the apparently successful offeror has registered in the CCR database. The contracting officer shall advise the offeror of the number of days it will be allowed to become registered. If the offeror does not become registered by the required date, the contracting officer shall award to the next otherwise successful registered offeror following the same procedures (i.e., if the next apparently successful offeror is not registered, the contracting officer shall advise the offeror of the number of days it will be allowed to become registered, etc.); or

(2) If the needs of the requiring activity do not allow for a delay, proceed to award to the next otherwise successful registered offeror, provided that written approval is obtained at one level above the contracting officer.

(d) Agencies shall protect against improper disclosure of contractor CCR information.

(e) The contracting officer shall, on contractual documents transmitted to

the payment office, provide the DUNS number, or, if applicable, the DUNS+4, in accordance with agency procedures.

**4.1104 Solicitation provision and contract clauses.**

Except as provided in 4.1102(a), use the clause at 52.204-7, Central Contractor Registration, in solicitations and contracts. If modifying a contract or an agreement to require registration, use the clause with its Alternate I.

**PART 13—SIMPLIFIED ACQUISITION PROCEDURES**

■ 8. Amend section 13.102 by revising paragraph (a) to read as follows:

**13.102 Source list.**

(a) Contracting officers should use the Central Contractor Registration database (see Subpart 4.11) at <http://www.ccr.gov> as their primary sources of vendor information. Offices maintaining additional vendor source files or listings should identify the status of each source (when the status is made known to the contracting office) in the following categories:

- (1) Small business.
- (2) Small disadvantaged business.
- (3) Women-owned small business.
- (4) HUBZone small business.
- (5) Service-disabled veteran-owned small business.
- (6) Veteran-owned small business.

\* \* \* \* \*

**13.201 [Amended]**

■ 9. Amend section 13.201 in the first sentence of paragraph (d) by removing "32.1110" and adding "4.1104 and 32.1110" in its place.

**PART 32—CONTRACT FINANCING**

■ 10. Amend section 32.805 by adding paragraph (d)(4) to read as follows:

**32.805 Procedure.**

\* \* \* \* \*

(d) \* \* \*

(4) The assignee is registered separately in the Central Contractor Registration unless one of the exceptions in 4.1102 applies.

\* \* \* \* \*

**32.1103 [Amended]**

■ 11. Amend section 32.1103 by removing the word "where" from paragraph (d).

■ 12. Amend section 32.1110 by revising the introductory text of paragraph (a), (a)(1), and (a)(2)(i) to read as follows:

**32.1110 Solicitation provision and contract clauses.**

(a) The contracting officer shall insert the clause at—

(1) 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, in solicitations and contracts that include the clause at 52.204–7 or an agency clause that requires a contractor to be registered in the CCR database and maintain registration until final payment, unless—

(i) Payment will be made through a third party arrangement (*see* 13.301 and paragraph (d) of this section); or

(ii) An exception listed in 32.1103(a) through (i) applies.

(2)(i) 52.232–34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration, in solicitations and contracts that require EFT as the method for payment but do not include the clause at 52.204–7, Central Contractor Registration, or a similar agency clause that requires the contractor to be registered in the CCR database.

\* \* \* \* \*

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 13. Revise section 52.204–6 to read as follows:

### 52.204–6 Data Universal Numbering System (DUNS) Number.

As prescribed in 4.603(a), insert the following provision:

Data Universal Numbering System (DUNS) Number (Oct 2003)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS number or “DUNS+4” that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same parent concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) If located within the United States, by calling Dun and Bradstreet at 1–866–705–5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(End of provision)

■ 14. Add section 52.204–7 to read as follows:

### 52.204–7 Central Contractor Registration.

As prescribed in 4.1104, use the following clause:

Central Contractor Registration (Oct 2003)

(a) *Definitions.* As used in this clause—  
*Central Contractor Registration (CCR) database* means the primary Government repository for Contractor information required for the conduct of business with the Government.

*Data Universal Numbering System (DUNS) number* means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

*Data Universal Numbering System + 4 (DUNS+4) number* means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

*Registered in the CCR database* means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields and has marked the record “Active”.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) If located within the United States, by calling Dun and Bradstreet at 1–866–705–5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect



information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

Alternate I (Oct. 2003). As prescribed in 4.1104(a), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)(1) The Contractor shall be registered in the CCR database by \_\_\_\_\_ [Contracting Officer shall insert a date no later than December 31, 2003]. The Contractor shall maintain registration during performance and through final payment of this contract.

(2) The Contractor shall enter, in the block with its name and address on the cover page of the SF 30, Amendment of solicitation/Modification of Contract, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the Contractor's name and address exactly as stated in this contract. The DUNS number will be used by the Contracting Officer to verify that the Contractor is registered in the CCR database.

■ 15. Amend section 52.212-1 by revising the date of the provision and paragraph (j); and adding paragraph (k) to read as follows:

**52.212-1 Instructions to Offerors—Commercial Items.**

\* \* \* \* \*

Instructions to Offerors—Commercial Items, (Oct. 2003)

\* \* \* \* \*

(j) *Data Universal Numbering System (DUNS) Number.* (Applies to all offers exceeding \$25,000, and offers of \$25,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database. The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address. The DUNS +4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same parent concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United

States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.dnb.com>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number.

(k) *Central Contractor Registration.* Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

■ 16. Amend section 52.212-4 by revising the date of the clause; and adding paragraph (t) to read as follows:

**52.212-4 Contract Terms and Conditions—Commercial Items.**

\* \* \* \* \*

Contract Terms and Conditions—Commercial Items, (OCT 2003)

\* \* \* \* \*

(t) *Central Contractor Registration (CCR).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at

paragraph (t)(2)(i)(C) of this clause, and in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

**52.212-5 [Amended]**

■ 17. Amend section 52.212-5 by revising the date of the clause to read "(OCT 2003); and in paragraph (b)(29) of the clause by removing "(MAY 1999)" and adding "(OCT 2003)" in its place.

**52.213-4 [Amended]**

■ 18. Amend section 52.213-4 by removing from the clause heading "(Aug 2003)" and in paragraph (b)(1)(ix) "(May 1999)" and adding in their places "(Oct 2003)".

■ 19. Amend section 52.232-33 by—  
 ■ a. Revising the date of the clause;  
 ■ b. Removing paragraph (e);  
 ■ c. Redesignating paragraphs (f) through (j) as (e) through (i), respectively; and  
 ■ d. Revising newly designated paragraph (g) to read as follows:

**52.232-33 Payment by Electronic Funds Transfer—Central Contractor Registration.**

\* \* \* \* \*

Payment by Electronic Funds Transfer—Central Contractor Registration, (Oct 2003)

\* \* \* \* \*

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to

the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 6, 7, 9, 10, 12, 13,  
14, 19, 22, 25, 34, 35, and 36

[FAC 2001-16; FAR Case 1997-304; Item  
II]

RIN 9000-A110

### Federal Acquisition Regulation; Electronic Commerce in Federal Procurement

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

**ACTION:** Interim rule adopted as final with changes.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998; and implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the "Governmentwide Point of Entry" or "GPE"). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule finalizes the interim rule that designated Federal Business Opportunities (FedBizOpps) as the GPE. In addition, this final rule makes the GPE the exclusive official source for public access to notices of procurement actions over \$25,000.

**DATES:** Effective Date: October 1, 2003.

**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. Cecelia Davis, Procurement Analyst, at (202) 219-0202. Please cite FAC 2001-16, FAR case 1997-304.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

##### 1. Implementation of Section 850 of the Defense Authorization Act for Fiscal Year 1998

Section 850, which is codified at section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426), requires agencies to "establish, maintain, and use, to the maximum extent that is practicable and cost-effective, procedures and processes that employ electronic commerce in the conduct and administration of their procurement systems." Among other things, section 850 called for "any notice of agency requirements or agency solicitation for contract opportunities" to be provided in a form that allows "convenient and universal user access through a single, government-wide point of entry" (GPE). In addition, section 850 amended titles 10, 15, 40, and 41 of the United States Code to eliminate the statutory preference for the Federal Acquisition Computer Network (FACNET) computer architecture in conducting transactions electronically.

On October 30, 1998, the Councils published an interim rule (63 FR 58590), which amended FAR subpart 4.5 and made associated changes to FAR parts 2, 5, 13, 14, and 32 to implement section 850. In particular, the interim rule amended the FAR to—

- Promote the cost-effective application of electronic commerce in Federal procurement; and
- Require Federal procurement systems that employ electronic commerce to apply nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information.

Around the time that the interim rule was developed, the General Services Administration (GSA), the National Aeronautics and Space Administration (NASA), and other agencies piloted, and later began using, "FedBizOpps" (formerly known as the Electronic Posting System) to take greater advantage of electronic tools. Among other things, these efforts were designed to provide sellers with "one-stop"

access to business opportunities (*i.e.*, where sellers, after identifying pre-solicitation notices of interest for actions above \$25,000, could quickly access related solicitation information through a direct link). These efforts were also intended to streamline agency buyers' preparation and issuance of notices and solicitation information without disrupting, eliminating, or otherwise requiring the replacement of current agency electronic commerce software.

In the spring of 2000, the Office of Federal Procurement Policy (OFPP) recommended that FedBizOpps (<http://www.fedbizopps.gov>) be designated as the GPE. The Councils published a proposed rule in the **Federal Register** to reflect this recommendation (65 FR 50872, August 21, 2000). The preamble to the proposed rule described the Government's objectives in designating a GPE (*i.e.*, to create a central point for electronic access to business opportunities, to follow the commercial lead, and to modernize processes used by sellers and buyers) and how FedBizOpps met these objectives.

After considering public comments on the proposed rule, the Councils published an interim rule in the **Federal Register** to make the proposed designation of FedBizOpps as the GPE effective (66 FR 27406, May 16, 2001). That rule required agencies to make notices of contracting opportunities that meet the criteria in FAR 5.101 and 5.201 accessible via FedBizOpps by October 1, 2001. In addition, the rule—

- Added place of contract performance and set-aside status as two new data fields to the required notice content;
- Required agencies to make accessible through FedBizOpps other notices that were being published in the CBD, such as presolicitation notices and award notices supporting subcontracting opportunities;
- Required agencies to make accessible via FedBizOpps most solicitations and amendments associated with business opportunities listed on the FedBizOpps web site;
- Permitted contractors to publicize subcontracting opportunities with the intent of supporting achievement of subcontracting goals; and
- Permitted agencies to make accessible via FedBizOpps information that allows potential offerors to better understand how they can meet the Government's needs.

This final rule finalizes the GPE designation that was proposed at 65 FR 50872, August 21, 2000, and made effective by the interim rule published

in the **Federal Register** at 66 FR 27406, May 16, 2001

## 2. Implementation of Section 810 of the Defense Authorization Act for Fiscal Year 2001

Section 810 amends section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)). As amended, these provisions allow agencies to provide access to their notices of solicitation either by transmitting them to the GPE designated in the FAR or by publishing them in the CBD, rather than mandating notices only through the CBD as had previously been required.

To implement section 810, the interim rule that was published on May 16, 2001 (66 FR 27406), established FedBizOpps (*i.e.*, the designated GPE) as the principal venue for procurement notices. Pursuant to that rule, agencies have been required to transmit notices to FedBizOpps since October 1, 2001. The rule required duplicate notices in the CBD through January 1, 2002, using the current format prescribed for the electronic version of the CBD, Commerce Business Daily Network (CBDNet). The duplication of notices transmitted to FedBizOpps in the CBD through the end of the calendar year 2001 was designed to provide additional time for vendors to become acclimated to FedBizOpps as the GPE.

The interim rule provided that agencies need not provide duplicate notice in the CBD as of January 1, 2002, and instead may rely exclusively on the mandatory notice in FedBizOpps to satisfy the required access. Thus, the interim rule effectively laid the foundation for the phase-out of the CBD and CBDNet by making their use non-mandatory. Agencies have been relying exclusively on FedBizOpps since the beginning of January 2002.

This final rule clarifies that the GPE is the exclusive source for public access to notices of procurement actions over \$25,000. Sole reliance on FedBizOpps is enabling the Government and its business partners to take advantage of the improved access to information and efficiencies made possible through electronic processes.

## 3. Public Comments

Public comments regarding the proposed designation of FedBizOpps as the GPE were solicited and received in response to the proposed rule published in the **Federal Register** at 65 FR 50872, August 21, 2000. For this reason, the subsequent interim rule that was published in the **Federal Register** at 66 FR 27406, May 16, 2001, sought

comments on the issues unique to that rule—namely, those relating to the implementation of section 810—for consideration in the formulation of this final rule.

The majority of the comments received in response to the interim rule focused on technical considerations related to the use of FedBizOpps, as opposed to the policies set forth in the rule. Those comments were referred to the FedBizOpps “users group” for consideration. The users group is comprised of agency representatives who help to manage their agency’s use of FedBizOpps. The remaining comments are briefly summarized as follows:

- Two commenters suggested continuing the publication of printed synopses. This suggestion was not accepted. The Councils believe the cost of issuing printed notices would be excessive for the small number of firms that would be interested in printed copies. Continued operation of a paper-based process would force the Government to shoulder unnecessary cost and burden. By contrast, sole reliance on FedBizOpps enables the Government and its business partners to take advantage of the improved access to information and efficiencies made possible through electronic processes.

- One commenter indicated that the rule should have addressed the underlying requirements for publication of notices and the content of notices. No changes were made to the rule based on this comment. The general requirement to synopsize and the contents of synopses are already addressed in FAR subpart 5.2. This rule does not change the underlying requirement to synopsize, which is rooted in section 18 of the Office of Federal Procurement Policy Act, 41 U.S.C. 416. Agencies’ internal review procedures provide the necessary oversight of contracting personnel to ensure compliance with these requirements.

- One commenter indicated that the interim FAR coverage failed to modify the timeframes for presumption of publication even though FedBizOpps will provide a near-instantaneous display of notices. FAR 5.203(g) has been amended to shorten to one day the time for presumption of publication.

- Finally, one commenter offered several editorial changes to improve the readability of the rule. These comments were accepted where possible.

This is a significant regulatory action and, therefore, was 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 Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it is summarized as follows:

The final rule further implements section 850 of the National Defense Authorization Act for Fiscal Year 1998, Pub. L. 105–85, and section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. 106–398. Section 850 amends titles 10, 15, 40, and 41 of the United States Code to eliminate the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) computer architecture. Section 810 amends 41 U.S.C. 416 and 15 U.S.C. 637 to allow solicitation notices to be published via a single Government point of entry (FedBizOpps) or via the CBD.

The objectives of the rule are (1) designate a single Governmentwide point of entry on the Internet, <http://www.fedbizopps.gov>, where agencies are required to provide convenient and universal public access to information on their procurement opportunities, and (2) to permit electronic access to notices of solicitation through the single Governmentwide point of entry as a substitute for the previously required paper publication in the CBD.

One comment was received in response to the Initial Regulatory Flexibility Analysis. The commentator recommended that the rule continue dual publishing of contracting opportunities in FedBizOpps and the CBD so that small businesses would have two sources from which to identify notices and solicitations. The IRFA should then be republished discussing Section 810 based on an interpretation that it does not preclude dual publishing of notices in the CBD and FedBizOpps. In addition, the comment suggested that the time for agencies to become fully compliant with the regulation be extended and that the rule mention the linkage between FedBizOpps and the Procurement Marketing and Access Network (PRO-Net).

No changes were made to the rule based on the comment. While Section 810 does not preclude the continuation of dual publicizing vehicles, the Federal Government is currently taking steps to eliminate duplicative systems in order to reduce operating costs for the Government and to provide one face to industry. Equally, if not more importantly, sole reliance on FedBizOpps enables the Government and its business partners to take advantage of the improved access to information and efficiencies made possible through electronic processes. With regard to extending the time provided for agencies to become compliant, this extension was not considered necessary since agencies have already completed their transition to FedBizOpps, in compliance with the interim rule, which made agency use of FedBizOpps mandatory as of October 1, 2001. With regard to linkage between FedBizOpps and PRO-Net, such linkage has been made on the cover page of FedBizOpps. The Councils do not

believe this linkage needs to be the subject of a regulatory promulgation.

The final rule will apply to all large and small entities that do business or are planning to do business with the Government. FedBizOpps is designed to be sufficiently versatile to allow sellers and service providers to access and download information through different commercial electronic means, including web-based technology, bulk data feeds, and electronic mail. This versatility will enable the more than 49,101 small and 19,382 large businesses to have easy access to Government business opportunities over \$25,000.

The rule imposes no reporting, recordkeeping, or other compliance requirements. There are no practical alternatives that will accomplish the objectives of this rule.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

**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 2, 4, 5, 6, 7, 9, 10, 12, 13, 14, 19, 22, 25, 34, 35, and 36**

Government procurement.

Dated: September 24, 2003.

**Laura G. Auletta,**  
*Director, Acquisition Policy Division.*

**Interim Rule Adopted as Final With Changes**

■ Accordingly, DoD, GSA, and NASA adopt the interim rules amending 48 CFR parts 2, 4, 5, 6, 7, 9, 12, 13, 14, 19, 22, 34, 35, and 36 that were published in the **Federal Register** at 63 FR 48590, October 30, 1998, and 66 FR 27406, May 16, 2001, as a final rule with the following changes:

■ 1. The authority citation for 48 CFR parts 2, 5, 9, 10, 12, 13, 14, 22, 25, and 35 is revised 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 2—DEFINITIONS OF WORDS AND TERMS**

**2.101 [Amended]**

■ 2. Amend section 2.101 in paragraph (b) by removing the definition “Commerce Business Daily (CBD)”.

**PART 5—PUBLICIZING CONTRACT ACTIONS**

■ 3. Revise section 5.003 to read as follows:

**5.003 Governmentwide point of entry.**

For any requirement in the FAR to publish a notice, the contracting officer must transmit the notices to the GPE.

**5.101 [Amended]**

■ 4. Amend section 5.101 in paragraph (a)(1) by removing “, unless covered by 5.003”; and by removing “5.207(d) and (g)” from the introductory text of paragraph (a)(2) and paragraph (a)(2)(i) (twice) and adding “5.207(c)” in its place.

■ 5. Amend section 5.201 by removing paragraph (b)(2) and redesignating paragraph (b)(3) as (b)(2); and revising newly designated paragraph (b)(2) and paragraph (d) to read as follows:

**5.201 General.**

\* \* \* \* \*

(b)(1) \* \* \*

(2) When transmitting notices to FACNET, contracting officers must ensure the notice is forwarded to the GPE.

\* \* \* \* \*

(d) The GPE may be accessed via the Internet at <http://www.fedbizopps.gov>.

■ 6. Amend section 5.203 by revising the introductory text of paragraph (a); and removing the first and second sentences from paragraph (g) and adding a sentence in its place to read as follows:

**5.203 Publicizing and response time.**

\* \* \* \* \*

(a) An agency must transmit a notice of proposed contract action to the GPE (*see* 5.201). All publicizing and response times are calculated based on the date of publication. The publication date is the date the notice appears on the GPE. The notice must be published at least 15 days before issuance of a solicitation except that, for acquisitions of commercial items, the contracting officer may—

\* \* \* \* \*

(g) Contracting officers may, unless they have evidence to the contrary, presume the notice was published one day after transmission to the GPE. \* \* \*

\* \* \* \* \*

**5.205 [Amended]**

■ 7. Amend section 5.205 by removing the last sentence of paragraph (b), the second and third sentences of paragraph (d)(1), the last sentence of paragraph (e), and the second sentence of paragraph (f).

**5.206 [Amended]**

■ 8. Amend section 5.206 by removing from the introductory text of paragraph (a) “, the CBD, or both”; and by removing from paragraph (b)(1) “, following the standard CBD format for items 7, 10, 11, and 17 in 5.207(b)(4)”.

■ 9. Revise section 5.207 to read as follows:

**5.207 Preparation and transmittal of synopses.**

(a) *Content.* Each synopsis transmitted to the GPE must address the following data elements, as applicable:

- (1) Action Code.
- (2) Date.
- (3) Year.
- (4) Government Printing Office (GPO) Billing Account Code.
- (5) Contracting Office Zip Code.
- (6) Classification Code.
- (7) Contracting Office Address.
- (8) Subject.
- (9) Proposed Solicitation Number.
- (10) Opening and Closing Response

Date.

(11) Contact Point or Contracting Officer.

(12) Contract Award and Solicitation Number.

- (13) Contract Award Dollar Amount.
- (14) Contract Line Item Number.
- (15) Contract Award Date.
- (16) Contractor.
- (17) Description.
- (18) Place of Contract Performance.
- (19) Set-aside Status.

(b) *Transmittal.* Transmissions to the GPE must be in accordance with the interface description available via the Internet at <http://www.fedbizopps.gov>.

(c) *General format for “Description.”* Prepare a clear and concise description of the supplies or services that is not unnecessarily restrictive of competition and will allow a prospective offeror to make an informed business judgment as to whether a copy of the solicitation should be requested including the following, as appropriate:

- (1) National Stock Number (NSN) if assigned.
- (2) Specification and whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and identification of the office from which additional information about the qualification requirement may be obtained (*see* subpart 9.2).
- (3) Manufacturer, including part number, drawing number, etc.
- (4) Size, dimensions, or other form, fit or functional description.
- (5) Predominant material of manufacture.
- (6) Quantity, including any options for additional quantities.

(7) Unit of issue.

(8) Destination information.

(9) Delivery schedule.

(10) Duration of the contract period.

(11) For a proposed contract action in an amount estimated to be greater than \$25,000 but not greater than the simplified acquisition threshold, enter—

(i) A description of the procedures to be used in awarding the contract (*e.g.*, request for oral or written quotation or solicitation); and

(ii) The anticipated award date.

(12) For Architect-Engineer projects and other projects for which the supply or service codes are insufficient, provide brief details with respect to: location, scope of services required, cost range and limitations, type of contract, estimated starting and completion dates, and any significant evaluation factors.

(13) Numbered notes (*see* paragraph (e) of this section), including instructions for set-asides for small businesses.

(14) In the case of noncompetitive contract actions (including those that do not exceed the simplified acquisition threshold), identify the intended source (*see* paragraph (e) of this section) and insert a statement of the reason justifying the lack of competition.

(15) Insert a statement that all responsible sources may submit a bid, proposal, or quotation which shall be considered by the agency.

(16) If solicitations synopsisized through the GPE will not be made available through the GPE, provide information on how to obtain the solicitation.

(17) If the solicitation will be made available to interested parties through electronic data interchange, provide any information necessary to obtain and respond to the solicitation electronically.

(18) In the case of a very small business set-aside, identify the Designated Region (*see* Subpart 19.9).

(19) If the technical data required to respond to the solicitation will not be furnished as part of such solicitation, identify the source in the Government, if any, from which the technical data may be obtained.

(d) *Set-asides*. When the proposed acquisition provides for a total, partial, or very small business set-aside or a HUBZone small business set-aside, the appropriate Numbered Note will be cited.

(e) *Numbered notes*. Numbered Notes are footnotes to be used by contracting officers to eliminate the unnecessary duplication of information that appears in various announcements. An explanation of the numbered notes appears at <http://www.fedbizopps.gov>.

(f) *Codes to be used in Synopses to identify services or supplies*. Contracting officers must use one of the classification codes identified at <http://www.fedbizopps.gov/> to identify services or supplies in synopses.

(g) *Cancellation of synopsis*. Contracting officers should not publish notices of solicitation cancellations (or indefinite suspensions) of proposed contract actions in the GPE.

Cancellations of solicitations must be made in accordance with 14.209 and 14.404–1.

■ 10. Amend section 5.301 by revising paragraph (c) and removing paragraph (d) to read as follows:

**5.301 General.**

\* \* \* \* \*

(c) With respect to acquisitions subject to the Trade Agreements Act, contracting officers must submit synopses in sufficient time to permit their publication in the GPE not later than 60 days after award.

**PART 9—CONTRACTOR QUALIFICATIONS**

**9.204 [Amended]**

■ 11. Amend section 9.204 in paragraph (a)(1) by removing the last sentence.

**9.205 [Amended]**

■ 12. Amend section 9.205 in the introductory text of paragraph (a) by removing the third sentence.

**PART 10—MARKET RESEARCH**

**10.002 [Amended]**

■ 13. Amend section 10.002 by removing “(see 5.207(e)(4))” from the end of paragraph (d)(2) and adding “(see 5.207(e))” in its place.

**PART 12—ACQUISITION OF COMMERCIAL ITEMS**

**12.603 [Amended]**

■ 14. Amend section 12.603 in paragraph (a) by removing the last sentence; in paragraph (c)(1) by removing “for items 1–16”; and in paragraph (c)(2) by removing “item 17,” and adding “the” in its place.

**PART 13—SIMPLIFIED ACQUISITION PROCEDURES**

**13.104 [Amended]**

■ 15. Amend section 13.104 in the first sentence of paragraph (b) by removing “neither using FACNET nor” and adding “not using either FACNET or” in its place.

**PART 14—SEALED BIDDING**

**14.503–2 [Amended]**

■ 16. Amend section 14.503–2 in paragraph (b) by removing “(see 5.207(b)(1))” and adding “(see 5.207)” in its place.

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

**22.1009–4 [Amended]**

■ 17. Amend section 22.1009–4 in the introductory text of paragraph (b) by removing “(see 5.207(g)(4))”.

**PART 25—FOREIGN ACQUISITION**

**25.408 [Amended]**

■ 18. Amend section 25.408 in paragraph (a)(2) by removing “(5.207(e)(2))” and adding “(5.207(e))” in its place.

**PART 35—RESEARCH AND DEVELOPMENT CONTRACTING**

**35.016 [Amended]**

■ 19. Amend section 35.016 in paragraph (c) by removing the last sentence.

[FR Doc. 03–24583 Filed 9–30–03; 8:45 am]

BILLING CODE 6820–EP–P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 4**

[FAC 2001–16; FAR Case 2002–025; Item III]

RIN 9000–AJ70

**Federal Acquisition Regulation; Unique Contract and Order Identifier Numbers**

**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 (Councils) have agreed to issue an interim rule amending the Federal Acquisition Regulation (FAR) to require that Federal agencies assign a unique identifier for every contract, purchase order, BOA, Basic Agreement, and BPA reported to the Federal Procurement Data System (FPDS). Agencies must be

in compliance with this requirement no later than October 1, 2003, when the next generation of FPDS, "FPDS-NG," becomes operational.

**DATES:** *Effective Date:* October 1, 2003.

*Comment Date:* Interested parties should submit comments to the FAR Secretariat at the address shown below on or before October 31, 2003, to be considered in the formulation of a final rule.

**ADDRESSES:** Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—*farcase.2002-025@gsa.gov*.

Please submit comments only and cite FAC 2001-16, FAR case 2002-025, 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. Gerald Zaffos, Procurement Analyst, at (202) 208-6091. Please cite FAC 2001-16, FAR case 2002-025.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Federal Government is modernizing its procurement data collection system, the Federal Procurement Data System (FPDS). As part of this modernization process, agencies are being asked to establish and use a unique contract and order identification number scheme for the information reported to FPDS. These unique identifiers will help to improve the quality of information FPDS makes available to agencies for managing their programs and to the public for better understanding how taxpayer funds are spent.

Therefore, the FAR is being amended at 4.602 to add a paragraph requiring that each agency that reports to the FPDS have in place no later than October 1, 2003, a process that will ensure that each procurement instrument identifier reported to FPDS is unique, Governmentwide, and will remain so for at least 20 years from the date of contract award; and to require that agencies submit their proposed identifier to the Federal Procurement Data Center, which will maintain a registry of identifiers and validate their use in all transactions.

The agency's identifier must comply with the contract numbering guidelines established by the Joint Financial Management Improvement Project (JFMIP). Delivery orders, task orders,

and call numbers must be unique in combination with the basic reference contract vehicle identifier. When the basic reference contract is available for multi-agency use, an ordering agency must use the same agency identification prefix for its delivery orders, task orders, and call numbers as it uses for its contractual instruments. Agencies may submit their proposed identifier to *john.cochran@gsa.gov*. Agencies are encouraged to submit their proposed identifier as soon as possible. If an agency is not in compliance by October 1, 2003 (*i.e.*, the date FPDS-NG becomes operational), FPDS-NG will reject the agency's reports.

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 Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply because the rule applies to the internal process of Federal agencies. An Initial Regulatory Flexibility Analysis has, therefore, not been prepared.

**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**

There is no requirement to publish this rule for public comment, as it is not a significant FAR revision. This rule simply requires that agencies assign a unique identifier for contracts, purchase orders, and agreements reported to the FPDS. Even though not required to do so, the Councils would, nevertheless, like to obtain public comments and are issuing this rule as an interim rule with request for comments. Pursuant to Public Law 8-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Part 4**

Government procurement.

Dated: September 24, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 4 as set forth below:

**PART 4—ADMINISTRATIVE MATTERS**

■ 1. The authority citation for 48 CFR part 4 is revised to read as follows:

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

■ 2. Amend section 4.602 by adding paragraph (e) to read as follows:

**4.602 Federal Procurement Data System.**

\* \* \* \* \*

(e) *Unique Procurement Instrument Identifier (PIID).* (1) The FPDS requires that each reporting agency assign a unique identifier for every contract, purchase order, BOA, Basic Agreement, and BPA reported to FPDS. Such identifiers shall comply with the contract numbering guidelines established by the Joint Financial Management Improvement Project. The PIID shall consist of alpha characters in the first positions to indicate the agency, followed by alphanumeric characters identifying bureau, offices, or other administrative subdivisions. The last portion of the PIID shall be numbered sequentially. The PIID may include other elements, as appropriate, such as fiscal year. Delivery orders, task orders, and call numbers must be unique in combination with the basic reference contract vehicle identifier. When the basic reference contract is available for multi-agency use (GWAC, Federal Supply Schedule contract, etc.), an ordering agency shall use the same agency identification prefix for its delivery orders, task orders, and call numbers as it uses for its contractual instruments.

(2) Agencies are required to have in place, no later than October 1, 2003, a process that will ensure that each PIID reported to FPDS is unique, Governmentwide, and will remain so for at least 20 years from the date of contract award. To eliminate the possibility of duplication between agencies, agencies must submit their proposed identifier to the Federal Procurement Data Center, which will maintain a registry of the identifiers on the FPDC website and validate their use in all transactions.

[FR Doc. 03-24584 Filed 9-30-03; 8:45 am]

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**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 2, 10, 12, 13, 19, and 25****[FAC 2001–16; FAR Cases 2002–026 and 2002–003; Item IV]****RINS 9000–AJ54 and 9000–AJ40****Federal Acquisition Regulation;  
Procurements for Defense Against or  
Recovery From Terrorism or Nuclear,  
Biological, Chemical or Radiological  
Attack, and Temporary Emergency  
Procurement Authority****AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement section 836 of the Fiscal Year 2002 National Defense Authorization Act and sections 852 through 856 and section 858 of the Homeland Security Act. Those sections increase the amount of the micro-purchase threshold and the simplified acquisition threshold and provide expanded access to streamlined procedures for procurements of supplies or services by or for an executive agency that are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

**DATES:** *Effective Date:* October 1, 2003.

**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. Gerald Zaffos, Procurement Analyst, at (202) 208–6091. Please cite FAC 2001–16, FAR cases 2002–026 and 2002–003.

**SUPPLEMENTARY INFORMATION:****A. Background**

*FAR Case 2002–026, Procurements for Defense Against or Recovery From Terrorism or Nuclear, Biological, Chemical or Radiological Attack.* An interim rule implementing sections 852 through 856 and section 858 of the Homeland Security Act (Public Law 107–296) was published in the **Federal Register** at 68 FR 4048, January 27,

2003. The interim rule provided Federal emergency procurement flexibilities by increasing the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements and provided expanded access to streamlined procedures for acquisitions of supplies or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The special increased thresholds and authorities under the Act apply to acquisitions resulting from solicitations issued before November 25, 2003.

A total of four comments from five commentors was received in response to the interim rule. Two commentors suggested that micropurchases should be subject to the small business reservation. This comment was not accepted.

Micropurchase authority is designed to enable agencies to make purchases in a highly simplified manner, generally without application of provisions and clauses and with minimal application of Government-unique requirements. While agencies should always actively consider the products and services of small businesses, irrespective of the size of the purchase, the Councils believe that imposition of a Government-unique regulatory buying mandate is generally inconsistent with the overall purpose of micropurchase authority. The Councils note that 41 U.S.C. 428(b) states that micro-purchases not be subject to the small business reservation: “(b) Exclusion for micro-purchases. A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and the Buy American Act (41 U.S.C. 10a–10c).”

Two commentors suggested that orders against GSA Schedules be subject to small business set-aside. This comment was not accepted as it was outside the scope of this case.

One commentor suggested that FAR 10.001 be revised to include language from the statute requiring use of commercially available market research methods, including use of commercial databases. This comment was partially accepted and a change was made to FAR 10.002 to add querying commercial databases as a market research technique. The balance of the recommendation was not accepted because the regulation already provides for using various market research methods.

This final rule finalizes the interim rule with the one change addressed above.

*FAR Case 2002–003, Temporary Emergency Procurement Authority.* This final rule also finalizes the interim rule issued in the **Federal Register** at 67 FR 56116, August 30, 2002, to implement section 836 of the Fiscal Year 2002 National Defense Authorization Act. That interim rule increased the amount of the micropurchase threshold and the simplified acquisition threshold for procurements of supplies or services by or for DoD during Fiscal Years 2002 and 2003, where those procurements are to facilitate the defense against terrorism or biological or chemical attack against the United States. Also, the rule provided that contracting officers acquiring biotechnology supplies or biotechnology services, for use to facilitate the defense against terrorism or biological or chemical attack against the United States, may treat the supplies or services as commercial items. No comments were received in response to that interim rule.

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 rule 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 it affects the pool of acquisitions that are reserved for small businesses. We have prepared a Final Regulatory Flexibility Analysis. The analysis is summarized as follows:

This rule finalizes two interim rules that amend the Federal Acquisition Regulation (FAR) to implement Section 836 of the Fiscal Year 2002 National Defense Authorization Act and Sections 852 through 856 and Section 858 of the Homeland Security Act (Public Law 107–296). Those sections increase the amount of the micro-purchase threshold and the simplified acquisition threshold and provide expanded access to streamlined procedures for procurements of supplies or services by or for an executive agency that are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The rule affects the pool of acquisitions subject to the small business reservation by raising the threshold for application of the reservation for specified acquisitions to the increased micro-purchase threshold (from \$2,500 to \$7,500/\$15,000) and correspondingly increasing the limitation to the increased simplified acquisition threshold (from \$100,000 to

\$200,000/\$250,000). No comments were received in response to the Initial Regulatory Flexibility Analysis for either case. The increased thresholds are limited to specified procurements. In addition, the special authorities are only available for a short period of time. There are no data available on the number of procurements that will be eligible. However, we expect the number of small entities that will be impacted by the increased thresholds to this limited class of procurements to be very small.

### 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 2, 10, 12, 13, 19, and 25

Government procurement.

Dated: September 24, 2003.

Laura G. Auletta,

Director, Acquisition Policy Division.

#### Interim Rules Adopted as Final With Changes

■ Accordingly, DoD, GSA, and NASA adopt the interim rules amending 48 CFR parts 2, 10, 12, 13, 19, and 25, which were published in the **Federal Register** at 67 FR 56116, August 30, 2002, and 68 FR 4048, January 27, 2003, as a final rule with the following change:

#### PART 10—MARKET RESEARCH

■ 1. The authority citation for 48 CFR part 10 is revised to read as follows:

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

##### 10.002 [Amended]

■ 2. Amend section 10.002 in paragraph (b)(2)(iv) by removing “Government” and adding “Government and commercial” in its place.

[FR Doc. 03-24585 Filed 9-30-03; 8:45 am]

BILLING CODE 6820-EP-P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 12, 32, and 52

[FAC 2001-16; FAR Case 2001-005; Item V]

RIN 9000-AJ20

#### Federal Acquisition Regulation; Notification of Overpayment, Contract Financing Payments

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to require the contractor to notify the contracting officer if the Government overpays when making an invoice payment or a contract financing payment under either a commercial item or noncommercial item contract.

**DATES:** *Effective Date:* October 31, 2003.

**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. Jeritta Parnell, Procurement Analyst, at (202) 501-4082. Please cite FAC 2001-16, FAR case 2001-005.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 55676, August 29, 2002, with request for comments. Two respondents submitted public comments. A discussion of the comments is provided below. Differences between the proposed and the final rule are discussed in paragraph 4 below.

1. *Comment:* There is concern that credit invoices, due to a revision of indirect billing rates, contractual actions impacting negotiated price, adjustments to progress payments as a result of change in the contract's estimated cost at completion, and authorized borrow-payback transfers will all be potentially misconstrued as overpayments because they may result in a need for the contractor to pay a sum back to the

Government as a result of the normal and expected operation of contractual terms and conditions. Therefore, the following definition should be added at the beginning of each of the proposed paragraphs imposing a notification requirement:

An overpayment is a payment of an amount greater than the value the contractor is entitled to receive at the time of the payment.

*Councils' response:* Do not concur. The intent of the rule is to require contractors to notify the Government when they become aware that an incorrect payment has been made. The Councils do not believe there is a demonstrated need for such a definition. First, the term “overpayment” is used in Government contracting in a variety of contexts, and we are concerned that establishing a definition in the payment clauses could have unintended consequences. Second, when a contract is modified to reflect the incorporation of new billing rates, or some other contract administration action, the contract modification should identify whether a credit is due the Government. The Councils do not anticipate that a contracting officer would issue a notification of overpayment in these instances. If, in the future, it becomes apparent that, in practice, contracting officers are taking an overly broad and needlessly burdensome interpretation of what constitutes an overpayment for the purposes of this notification requirement, then the Councils will revisit this issue.

2. *Comment:* A dollar threshold of \$25,000, or some other reasonable threshold, should be established for the notification of overpayment requirement. The requirement for providing a notification for any overpayment, no matter how small or insignificant in amount, is not cost-effective. In addition, instead of immediate notification, DoD should give contractors thirty days to notify the contracting officer, after the overpayment has been verified to source documents. Finally, the contract should require that the disposition instructions provided by the contracting officer be broadened, *i.e.*, that the payment office be required to provide both the contractor and contracting officer with appropriation-level detail of how all overpayment refunds are posted back to the contract.

*Councils' response:* The Councils do not agree with the premise that a threshold is needed. Many, if not most, contractors now provide notice to the Government when they believe an overpayment, or any other payment



error, has occurred, and there is no threshold involved. Notification helps to reinforce the public's trust that taxpayer dollars are being properly expended and is important, even for smaller dollar transactions, because there may be a mistake in the payment process that will cause future payment errors. Notification will enable the Government to identify and correct any systemic problems that may have arisen. The Councils also do not believe the rule needs to specify a notification timeframe. If it is not clear to the contractor that an overpayment has actually occurred, the contractor could double-check its records expeditiously prior to notification. On the other hand, if the contractor provides notification and later determines that it was in error, the contractor can retract the notification as easily and as swiftly as it was made. The Councils believed that further disposition instructions should be addressed on a case-by-case basis.

3. *Comment:* The analyses required by the Regulatory Flexibility Act and Paperwork Burden Act should be revised since they do not adequately address the burden that the proposed rule places on contractors, especially small businesses.

*Councils' response:* The Councils believe that it is a normal business practice for contractors to have billing systems in place that identify what is owed them, and to submit payment requests to the Government accordingly. Consequently, the inclusion of notification of overpayment language in payment and financing clauses is the formalization of a practice that normally is already followed by most contractors, *i.e.*, to inform the entity that pays you when you believe a mistake has been made. Therefore, the proposed case, and the notification requirement (already instituted in FAR case 1999-023 published in the **Federal Register** at 66 FR 65353, December 18, 2001, for most invoicing payments), would only reflect a new burden for contractors that routinely ignore payment mistakes. The Councils believe the increase in the paperwork burden, as stated in the proposed rule, adequately reflects this impact.

In addition, it is not expected that this change will impact a substantial number of small entities since the overpayments cited by GAO in its July 1999 report GAO/NSIAD-99-131, Greater Attention Needed to Identify and Recover Overpayments, were all related to large businesses.

4. *Comment:* Government inaction when overpayments occur is a major problem in addition to the overpayment itself. Therefore, it is recommended that

the words "promptly" and "timely" be added to the rule, as indicated below, to emphasize the need for quick response on the part of a contracting officer to the contractor's notification of overpayment.

"If the contractor notifies the contracting officer of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the contracting officer must promptly provide instructions to the contractor, in coordination with the cognizant payment office, regarding timely disposition of the overpayment."

*Councils' response:* Concur. The proposed rule has been changed at FAR 12.215 and FAR 32.008.

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

#### B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, since the overpayments cited by GAO in its report GAO/NSIAD-99-131 were all related to large businesses (*see* reconciliation of comment #3).

#### C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) applies because the final rule contains information collection requirements. This final rule requires the contractor to notify the contracting officer if the contractor becomes aware that the Government has overpaid on a financing payment under a contract for noncommercial items, and on financing and invoice payments under a contract for commercial items. Although this estimated burden requires approval under the Act, it is so small (less than 1 percent increase) that it does not substantially impact the estimated total burden under Office of Management and Budget Control Number 9000-0102 (in lieu of OMB Control Number 9000-0070, which was inadvertently listed in the proposed rule). (*See* reconciliation of comment #3.)

#### List of Subjects in 48 CFR Parts 12, 32, and 52

Government procurement.

Dated: September 24, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 12, 32, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 12, 32, and 52 is revised 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 12—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Add section 12.215 to read as follows:

##### 12.215 Notification of overpayment.

If the contractor notifies the contracting officer of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the contracting officer must promptly provide instructions to the contractor, in coordination with the cognizant payment office, regarding timely disposition of the overpayment.

#### PART 32—CONTRACT FINANCING

■ 3. Add section 32.008 to read as follows:

##### 32.008 Notification of overpayment.

If the contractor notifies the contracting officer of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the contracting officer must promptly provide instructions to the contractor, in coordination with the cognizant payment office, regarding timely disposition of the overpayment.

#### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 52.212-4 by revising the date of the clause and paragraph (i) to read as follows (the undesignated paragraph following paragraph (i) is removed):

##### 52.212-4 Contract Terms and Conditions—Commercial Items.

\* \* \* \* \*

Contract Terms and Conditions—Commercial Items (Oct. 2003)

\* \* \* \* \*

(i) *Payment.*—(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and

prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT)*. If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

\* \* \* \* \*

■ 5. Amend section 52.213-4 by revising the date of the clause and paragraph (a)(2)(iv) 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) (Oct. 2003).

- (a) \* \* \*
- (2) \* \* \*

(iv) 52.232-25, Prompt Payment (Oct. 2003).

\* \* \* \* \*

■ 6. Amend section 52.232-25 by revising the date of the clause and paragraph (d) to read as follows:

**52.232-25 Prompt Payment.**

\* \* \* \* \*

Prompt Payment (Oct. 2003).

\* \* \* \* \*

(d) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.  
(End of clause)

\* \* \* \* \*

■ 7. Amend section 52.232-26 by revising the date of the clause and paragraph (c) to read as follows:

**52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.**

\* \* \* \* \*

Prompt Payment for Fixed-Price Architect-Engineer Contracts (Oct. 2003).

\* \* \* \* \*

(c) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the

Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.  
(End of clause)

■ 8. Amend section 52.232-27 by revising the date of the clause and paragraph (1) to read as follows:

**52.232-27 Prompt Payment for Construction Contracts.**

\* \* \* \* \*

Prompt Payment for Construction Contracts (Oct. 2003).

\* \* \* \* \*

(1) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

[FR Doc. 03-24586 Filed 9-30-03; 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 2001-16; FAR Case 2003-006; Item VI]

RIN 9000-AJ71

**Federal Acquisition Regulation; Caribbean Basin Country—Dominican Republic**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to reinstate the treatment of the products of the Dominican Republic as eligible products under acquisitions subject to the Trade Agreements Act, as directed by the U.S. Trade Representative (USTR).

**DATES:** *Effective Date:* October 31, 2003.

**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.

Cecelia Davis, Procurement Analyst, at (202) 219-0202. Please cite FAC 2001-16, FAR case 2003-006.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends FAR 25.003, 25.400, and the clauses at 52.212-5 and 52.225-5 to implement the direction of the USTR to reinstate the treatment of certain products of the Dominican Republic as eligible products under acquisitions subject to the Trade Agreements Act (TAA), as published by the USTR in the **Federal Register** at 68 FR 27883, May 21, 2003.

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 Regulatory Flexibility Act does not apply to this rule. This 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 Parts 25 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001-16, FAR case 2003-006), 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 25 and 52**

Government procurement.

Dated: September 24, 2003.

**Laura G. Auletta,**  
*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 25 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 25 and 52 is revised 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 25—FOREIGN ACQUISITION****25.003 [Amended]**

■ 2. Amend section 25.003 in the definition “Caribbean Basin country” by adding “Dominican Republic,” after “Dominica.”

**25.400 [Amended]**

■ 3. Amend section 25.400 in paragraph (a)(2) by removing “the Dominican Republic and”.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****52.212–5 [Amended]**

■ 4. Amend section 52.212–5 by removing “(June 2003)” from the clause heading and in paragraph (b)(23) and adding “(Oct 2003)” in its place.

**52.225–5 [Amended]**

■ 5. Amend section 52.225–5 by revising the date of the clause to read “(Oct 2003)” and in paragraph (a) of the clause, in the definition “Caribbean Basin country,” by adding “Dominican Republic,” after “Dominica.”

[FR Doc. 03–24587 Filed 9–30–03; 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 2001–16; FAR Case 2001–015; Item VII]

RIN 9000–AJ35

**Federal Acquisition Regulation; Prohibited Sources**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement recent Executive orders and to reflect the regulations of the Department of the Treasury’s Office of Foreign Assets Control (OFAC).

**DATES:** *Effective Date:* October 31, 2003.

**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. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–16, FAR case 2001–015.

**SUPPLEMENTARY INFORMATION:****A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 13080, March 20, 2002. The proposed rule implemented Executive Order 13192, Lifting and Modifying Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), and reflected the regulations of OFAC in the Department of the Treasury.

One respondent submitted public comments. The Councils considered the public comments before agreeing to convert the proposed rule to a final rule with minor changes.

The respondent recommended that we restore the statement at FAR 25.701(a) that the restrictions apply to acquisitions of supplies and services, even for overseas use. The Councils do not concur. This statement regarding overseas use was included at FAR 25.701(a) because we were trying to make a distinction between prohibitions on import of some supplies and services into the United States and the voluntary policy of the Government not to acquire such supplies for overseas use. However, the Department of the Treasury brought to the attention of the Councils that most of the prohibitions already applied to overseas acquisition and use as well as to importation. The regulations at 31 CFR chapter V provide details as to whether the prohibitions apply to acquisition for overseas use as well as importation.

The respondent also was concerned that we should retain paragraph (c) of FAR 52.225–13, Restrictions on Certain Foreign Purchases. Paragraph (c) provides for flowdown of the restrictions to subcontractors. The proposed rule did not delete paragraph (c) from the clause. It was not reprinted in the **Federal Register** notice because no changes were proposed to that paragraph.

There are other recent directives which are relevant to subpart 25.7, which are not yet implemented in the OFAC regulations:

- Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism;
- Executive Order 13288, Blocking Property of Persons Undermining

Democratic Processes or Institutions in Zimbabwe;

- Executive Order 13268, Termination of Emergency With Respect to the Taliban and Amendment of Executive Order 13224 of September 23, 2001; and

- The general license issued on May 23, 2003, by the Department of the Treasury entitled “Iraqi Sanctions Regulations.”

Contracting officers are to refer to the above directives and the most recent version of the regulations of OFAC at 31 CFR chapter V.

Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea. This rule removes Serbia, the Taliban-controlled regions of Afghanistan, and Iraq from the list of prohibited sources and points the contracting officer to lists of entities and individuals subject to economic sanctions that are available at <http://www.epls.gov/TerList1.html>.

The contracting officer is no longer authorized in unusual circumstances to acquire for use outside the United States supplies or services restricted by this section, unless specifically authorized by OFAC. However, OFAC has granted authority to Department of Defense personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by OFAC.

This rule also amends the legal basis for use of the clause 52.225–13, Restrictions on Certain Foreign Purchases, that is provided in the clauses at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items). The rule replaces the list of specific Executive orders, which is incomplete and outdated, with a general reference to all proclamations, Executive orders, and statutes administered by OFAC.

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

**B. Regulatory Flexibility Act**

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final

rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only affects acquisitions from prohibited sources.

**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 25 and 52**

Government procurement.

Dated: September 24, 2003.

**Laura G. Auletta,**  
*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 25 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 25 and 52 is revised 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 25—FOREIGN ACQUISITION**

■ 2. Revise section 25.701 to read as follows:

**25.701 Restrictions.**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, agencies and their contractors and subcontractors must not acquire any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea into the United States or its outlying areas. In addition, lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.epls.gov/Terlist1.html>. More information about these restrictions, as well as updates, is available in OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/ofac>.

**25.702 [Amended]**

■ 3. Amend section 25.702 by removing "622-2520" and adding "622-2490" in its place.

**25.1103 [Amended]**

■ 4. Amend section 25.1103 in paragraph (a) by removing "(see 25.701(a)(2))".

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 5. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(24) 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 (Oct. 2003)**

\* \* \* \* \*

(b) \* \* \*

(24) 52.225-13, Restrictions on Certain Foreign Purchases (Oct. 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\* \* \* \* \*

■ 6. Amend section 52.213-4 by revising paragraph (a)(1)(iv) to read as follows:

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

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iv) 52.225-13, Restrictions on Certain Foreign Purchases (Oct. 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\* \* \* \* \*

■ 7. Amend section 52.225-13 by revising the date of the clause and paragraphs (a) and (b) to read as follows:

**52.225-13 Restrictions on Certain Foreign Purchases.**

\* \* \* \* \*

**Restrictions on Certain Foreign Purchases (Oct. 2003)**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at

<http://www.epls.gov/Terlist1.html>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/ofac>.

\* \* \* \* \*

[FR Doc. 03-24588 Filed 9-30-03; 8:45 am]

BILLING CODE 6820-EP-P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 31**

[FAC 2001-16; FAR Case 2002-001; Item VIII]

RIN 9000-AJ46

**Federal Acquisition Regulation; Economic Planning, Employee Morale, and Travel Cost Principles**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) by revising three cost principles regarding economic planning costs; employee morale, health, welfare, food service, and dormitory costs and credits; and travel costs. The changes restructure the paragraphs and remove unnecessary and duplicative language to increase clarity and readability.

**DATES:** *Effective Date:* October 31, 2003.

**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. Edward Loeb at (202) 501-0650. Please cite FAC 2001-16, FAR case 2002-001.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 55686, August 29, 2002, with request for comments. One respondent submitted comments; a discussion of the comments is provided below. Differences between the proposed rule and final rule are discussed in Section B, Comments 1 and 2, below.

*FAR 31.205–12, Economic Planning Costs*

*Comment 1: Revise proposed FAR 31.205–12(a).* The respondent agrees with the deletion of the current paragraphs (b) and (c). However, the respondent believes that by deleting the phrase “and that may take into account the eventual possibility of economic dislocation or fundamental alterations in those markets in which the contractor currently does business” from the first sentence in the current paragraph (a), the Councils may be unintentionally narrowing the allowability of economic planning costs. Specifically, the respondent stated that “costs associated with the generalized planning of possible divestitures may no longer be considered economic planning costs by auditors and ACOs but be considered unallowable organization costs instead.”

*Councils’ response:* Partially concur. It was not the Council’s intent to change the scope of this cost principle; the Councils simply concluded that the phrase in question was unnecessary. But, since industry believes its deletion would narrow the allowability of costs under this cost principle, the phrase is reinstated to the first sentence in paragraph (a). However, the Councils also want to go on record as not agreeing with the assertion that planning costs related to divestiture efforts are economic planning costs covered by this cost principle. Efforts by a contractor to analyze future market conditions and assess the impact of those conditions on its current organization are economic planning costs. Any efforts by a contractor to analyze, initiate, or change its current organization to meet future market conditions are organization or reorganization costs covered under FAR 31.205–27, Organization costs. Contractors’ general long-range planning efforts involving the contractor’s organization will need to be reviewed on a case-by-case basis.

*Comment 2: Revise proposed FAR 31.205–12(a).* The respondent believes that it is not necessary to include the words “determining the allowability of” in the last sentence of paragraph (a), since there is no determination to be made under FAR 31.205–38, Selling costs, regarding the allowability of other market planning costs.

*Councils’ response:* Concur. The Councils agree and have deleted the phrase from the last sentence in paragraph (a).

*FAR 31.205–13, Employee Morale, Health, Welfare, Food Service, and Dormitory Costs and Credits*

*Comment 3: Delete proposed FAR 31.205–13(d).* The respondent recommended the elimination of paragraph (d) regarding the cost allowability of food and dormitory services provided for employees. The respondent states that differing interpretations on how to apply the detailed provisions in paragraph (d) often occur. The respondent believes that the Government would still be adequately protected by FAR 31.201–3, Determining reasonableness, even if paragraph (d) is eliminated.

*Councils’ response:* Nonconcur. This section of the cost principle clarifying the allowability of dining facilities costs is statutorily required by 10 U.S.C. 2324 (f)(1)(G) and 41 U.S.C. 256 (f)(1)(G). In addition, while the respondent provided some examples where they believe subjective and interpretational differences may occur, they did not cite any specific cost principle language that is problematic. The Councils believe the current cost principle language provides adequate criteria for properly determining cost allowability in their examples.

*FAR 31.205–46, Travel Costs*

*Comment 4: Revise proposed FAR 31.205–46.* The respondent has no objection to the deletion of the current paragraphs (b) and (c) to remove duplicative coverage. However, the respondent believes this cost principle can be further streamlined by removing the existing per diem ceiling limitations on the costs incurred for lodging, meals, and incidentals by allowing reimbursement of such costs on a “reasonable charge” basis. The respondent pointed out its endorsement of the Government’s proposed rule associated with FAR case 1994–753, Travel Costs.

*Councils’ response:* Partially concur. The Councils agreed to delete paragraphs (b) and (c) to remove duplicative coverage.

The recommendation to remove the existing per diem ceiling limitations provided in paragraph (a)(2) for lodging, meals, and incidental expenses is outside the scope of this case. During the deliberations on FAR case 1994–753, Travel Costs, several respondents raised concerns over the potential for increased costs to the Government and potential inequities between the treatment of contractor travel costs and Federal employee travel costs. The FAR Council placed the case on hold in November 2001, pending resolution of

these concerns. The Councils have not identified procedures to mitigate the risks associated with the proposed change to the travel cost principle and are taking no further action on FAR case 1994–753.

*General Reformatting of FAR 31.205*

*Comment 5:* The respondent also recommended that the Councils consider a general reformatting of FAR part 31, Contract Cost Principles and Procedures. Specifically, consideration should be given to establishing a uniform structure for the selected costs detailed in FAR 31.205, which the respondent believes will increase the clarity and understanding of the cost principles and thereby reduce misinterpretation.

*Councils’ response:* Nonconcur. The Councils are unaware of any significant clarity problems with the current FAR cost principles and see no benefit in this recommendation. While it is true that the cost principles do not all share an identical format, it does not follow that this makes them difficult to understand. Moreover, such a comprehensive revision of the cost principles could actually increase disputes by substituting new wording for longstanding, court-tested language.

Of the 48 current FAR cost principles, 16 are only one paragraph long, and 11 more are only two or three paragraphs long. The Councils question the need to “force-fit” such short cost principles into a uniform format, particularly in the absence of any significant clarity problems. Not only would the recommended general reformatting of the cost principles be difficult to accomplish, but it would also offer no obvious benefit to either industry or the Government.

The Councils recommend instead that industry continue to identify those individual cost principles which it views as problematic and to provide specific proposals for appropriate revisions. It should be noted that the continuing Defense Procurement and Acquisition Policy initiative to reduce accounting and administrative burdens in the cost principles, without jeopardizing the Government’s interests, has resulted in significant changes or deletions involving more than 20 different cost principles to date, including the recent major revisions to the relocation cost principle (FAR 31.205–35) that made employee “tax gross-ups” and spouse employment assistance payments allowable for the first time, as well as increased the maximum allowable lump-sum amount for miscellaneous expenses from \$1,000 to \$5,000. In addition, cost principle

streamlining cases are currently in process regarding compensation (FAR 31.205-6), training and education (FAR 31.205-44), selling (FAR 31.205-38), depreciation (FAR 31.205-11), and expanded relocation lump-sum (FAR 31.205-35). The Councils continue to believe that such a case-by-case cooperative effort with industry offers the best opportunity for meaningful change in this often controversial area.

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

**B. Regulatory Flexibility Act**

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because 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 discussed in this rule.

**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 31**

Government procurement.

Dated: September 24, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 31 as set forth below:

**PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES**

■ 1. The authority citation for 48 CFR part 31 is revised to read as follows:

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

**31.205-6 [Amended]**

■ 2. Amend section 31.205-6 in paragraph (m)(2) by removing “(see 31.205-46(f))” and adding “(see 31.205-46(d))” in its place.

■ 3. Revise section 31.205-12 to read as follows:

**31.205-12 Economic planning costs.**

Economic planning costs are the costs of general long-range management planning that is concerned with the future overall development of the contractor’s business and that may take into account the eventual possibility of economic dislocations or fundamental alterations in those markets in which the contractor currently does business. Economic planning costs are allowable. Economic planning costs do not include organization or reorganization costs covered by 31.205-27. See 31.205-38 for market planning costs other than economic planning costs.

■ 4. Amend section 31.205-13 by revising paragraphs (a), (d), and (f) to read as follows:

**31.205-13 Employee morale, health, welfare, food service, and dormitory costs and credits.**

(a) Aggregate costs incurred on activities designed to improve working conditions, employer-employee relations, employee morale, and employee performance (less income generated by these activities) are allowable, subject to the limitations contained in this subsection. Some examples of allowable activities are—

- (1) House publications;
- (2) Health clinics;
- (3) Wellness/fitness centers;
- (4) Employee counseling services; and
- (5) Food and dormitory services for the contractor’s employees at or near the contractor’s facilities. These services include—

(i) Operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations; and

- (ii) Similar types of services.

(d)(1) The allowability of food and dormitory losses are determined by the following factors:

(i) Losses from operating food and dormitory services are allowable only if the contractor’s objective is to operate such services on a break-even basis.

(ii) Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to the accomplishment of the objective in paragraph (d)(1)(i) of this subsection are not allowable, except as described in paragraph (d)(1)(iii) of this subsection.

(iii) A loss may be allowed to the extent that the contractor can demonstrate that unusual circumstances exist such that even with efficient management, operating the services on a break-even basis would require charging inordinately high prices, or

prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas. The following are examples of unusual circumstances:

(A) The contractor must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available.

(B) The contractor’s charged (but unproductive) labor costs would be excessive if the services were not available.

(C) If cessation or reduction of food or dormitory operations will not otherwise yield net cost savings.

(2) Costs of food and dormitory services shall include an allocable share of indirect expenses pertaining to these activities.

\* \* \* \* \*

(f) Contributions by the contractor to an employee organization, including funds from vending machine receipts or similar sources, are allowable only to the extent that the contractor demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if directly incurred by the contractor.

**31.205-46 [Amended]**

■ 5. Amend section 31.205-46 as follows:

■ a. Remove paragraphs (b) and (c), and redesignate paragraphs (d), (e), and (f) as (b), (c), and (d), respectively; and

■ b. In the introductory text of newly designated paragraph (c)(2), remove “paragraph (d)” each time it appears (twice) and add “paragraph (b)” in their place; and remove “subparagraph (e)(3)” and add “paragraph (c)(3)” in its place.

[FR Doc. 03-24589 Filed 9-30-03; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 8 and 24**

[FAC 2001-16; Item IX]

**Federal Acquisition Regulation; Technical Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This document makes amendments to the Federal Acquisition

Regulation (FAR) in order to update references and make editorial changes.  
**DATES:** *Effective Date:* October 1, 2003.  
**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. Please cite FAC 2001-16, Technical Amendments.

**List of Subjects in 48 CFR Parts 8 and 24**

Government procurement.  
 Dated: September 24, 2003.

**Laura G. Auletta,**  
*Director, Acquisition Policy Division.*  
 ■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 8 and 24 as set forth below:  
 ■ 1. The authority citation for 48 CFR parts 8 and 24 is revised 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 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

■ 2. Amend section 8.404 by revising the first sentence of paragraph (b)(6) to read as follows:

**8.404 Using schedules.**

\* \* \* \* \*  
 (b) \* \* \*  
 (6) \* \* \* When conducting evaluations and before placing an order, consider including, if available, one or

more small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, woman-owned small business, and/or small disadvantaged business schedule contractor(s). \* \* \*  
 \* \* \* \* \*

**PART 24—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION**

**§ 24.202 [Amended]**

■ 3. Amend section 24.202 by—  
 ■ a. Removing the em dash at the end of the introductory text of paragraph (a);  
 ■ b. Removing paragraph (a)(1); and  
 ■ c. Removing paragraph designation “(a)(2)” and the word “Set” and adding “set” in its place.

[FR Doc. 03-24590 Filed 9-30-03; 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. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001-16 which amends the FAR. An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2001-16 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. For clarification of content, contact the analyst whose name appears in the table below.

**LIST OF RULES IN FAC 2001-16**

Item	Subject	FAR case	Analyst
* I	Central Contractor Registration	2002-018	Parnell.
* II	Electronic Commerce in Federal Procurement	1997-304	Davis.
III	Unique Contract and Order Identifier Numbers (Interim)	2002-025	Zaffos.
* IV	Procurements for Defense Against or Recovery From Terrorism or Nuclear, Biological, Chemical or Radiological Attack; and Temporary Emergency Procurement Authority.	2002-026	Zaffos.
V	Notification of Overpayment, Contract Financing Payments	2002-003	
VI	Caribbean Basin Country—Dominican Republic	2001-005	Parnell.
VII	Prohibited Sources	2003-006	Davis.
VIII	Economic Planning, Employee Morale, and Travel Cost Principles	2001-015	Davis
IX	Technical Amendments.	2002-001	Loeb.

**Item I—Central Contractor Registration (FAR Case 2002-018)**

This final rule amends FAR parts 1, 2, 4, 13, 32, and 52 to require contractor registration in the Central Contractor Registration (CCR) database prior to award of any contract, basic agreement, basic ordering agreement, or blanket purchase agreement on or after October 1, 2003. In addition, the rule requires contracting officers to modify existing contracts whose period of performance extends beyond December 31, 2003, to

require contractors to register in the CCR database by December 31, 2003.

**Item II—Electronic Commerce in Federal Procurement (FAR Case 1997-304)**

This final rule implements section 850 of the National Defense Authorization Act for Fiscal Year 1998, Public Law 105-85, and section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106-398. Section 850

amends titles 10, 15, 40, and 41 of the United States Code to eliminate the preference for electronic commerce within Federal agencies to be conducted on the Federal Acquisition Computer Network (FACNET) computer architecture. Section 810 amends 41 U.S.C. 416 and 15 U.S.C. 637 to allow solicitation notices to be published via a single Governmentwide point of entry on the Internet designated in the FAR or via the Commerce Business Daily (CBD). The objectives of the rule are (1) to

designate a single Governmentwide point of entry on the Internet, <http://www.fedbizopps.gov>, where agencies are required to provide convenient and universal public access to information on their procurement opportunities, and (2) to require electronic access to notices of solicitation through the single Governmentwide point of entry as a replacement for paper (or electronic) publication in the CBD.

**Item III—Unique Contract and Order Identifier Numbers (FAR Case 2002–025)**

This interim rule amends the FAR to require each reporting agency to assign a unique procurement instrument identifier (PIID) for every contract, purchase order, BOA, Basic Agreement, and BPA reported to the Federal Procurement Data System; and to have in place, no later than October 1, 2003, a process that will ensure that each PIID reported to FPDS is unique, Governmentwide, and will remain so for at least 20 years from the date of contract award.

**Item IV—Procurements for Defense Against or Recovery From Terrorism or Nuclear, Biological, Chemical or Radiological Attack, and Temporary Emergency Procurement Authority (FAR Cases 2002–026 and 2002–003)**

This rule finalizes interim rules 2002–026 and 2002–003, which increased the amount of the micro-purchase threshold and the simplified acquisition threshold and provide expanded access to streamlined procedures for procurements of supplies or services by or for an executive agency that are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

This final rule also amends the FAR to add the querying of commercial databases that provide information

relevant to the agency acquisition as a technique for conducting market research.

**Item V—Notification of Overpayment, Contract Financing Payments (FAR Case 2001–005)**

This final rule amends FAR parts 12, 32, and 52 to require the contractor to notify the contracting officer if the Government overpays when making an invoice payment or a contract financing payment under either a commercial item or a noncommercial item contract.

**Item VI—Caribbean Basin Country—Dominican Republic (FAR Case 2003–006)**

This final rule amends FAR 25.003, 25.400, and the clauses at FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and FAR 52.225–5, Trade Agreements, to implement the direction of the USTR to reinstate the treatment of certain products of the Dominican Republic as eligible products under acquisitions subject to the Trade Agreements Act, as published by the USTR in the Federal Register at 68 FR 27883, May 21, 2003. This change will allow Government purchase of products originating in the Dominican Republic that are not excluded from duty-free treatment under 19 U.S.C. 2703(b), unless otherwise restricted by law.

**Item VII—Prohibited Sources (FAR Case 2001–015)**

This final rule removes Serbia, the Taliban-controlled regions of Afghanistan, and Iraq from the list of prohibited sources and points the contracting officer to lists of entities and individuals subject to economic sanctions that are available at <http://www.epis.gov/TerList1.html>. The contracting officer is no longer authorized in unusual circumstances to

acquire for use outside the United States supplies or services restricted by this section, unless specifically authorized by the OFAC. However, OFAC has granted authority to Department of Defense personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by OFAC.

**Item VIII—Economic Planning, Employee Morale, and Travel Costs Principles (FAR Case 2002–001)**

This final rule amends the FAR to revise three cost principles: (1) FAR 31.205–12, Economic planning costs; (2) FAR 31.205–13, Employee morale, health, welfare, food service, and dormitory costs and credits; and (3) FAR 31.205–46, Travel costs. The changes restructure the paragraphs and remove unnecessary and duplicative language to increase clarity and readability. The rule does not change the allowability of costs. The case was initiated to consider suggestions made at a series of public meetings. This rule is of particular interest to contractors and contracting officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, e.g., price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

**Item IX—Technical Amendments**

This amendment makes editorial changes at FAR 8.404(b)(6) and 24.202(a).

Dated: September 24, 2003.

**Laura G. Auletta,**

*Director, Acquisition Policy Division.*

[FR Doc. 03–24591 Filed 9–30–03; 8:45 am]

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