U.S. DEPARTMENT OF COMMERCE
Office of Inspector General

PUBLIC RELEASE

OFFICE OF THE CHIEF INFORMATION OFFICER

Department Is Working to Improve Accuracy of Reporting Y2K Compliance Status

Inspection Report No. OSE-10924 / March 1999

Office of Systems Evaluation

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

March 31, 1999

MEMORANDUM FOR: Roger W. Baker
Chief Information Officer

FROM: Johnnie Frazier
Acting Inspector General

SUBJECT: Final Inspection Report, *Department Is Working to Improve Accuracy of Reporting Y2K Compliance Status*
(Report No. OSE-10924)

The Office of Inspector General is conducting a series of reviews of the Department of Commerce's Year 2000 (Y2K) Conversion Program. The purpose of this review was to determine whether the number of compliant systems reported to the Office of Management and Budget (OMB) accurately reflected the status of the Department's Y2K Program. We made this determination by assessing a small sample of systems reported to be compliant. We found that the reported number of compliant systems does not accurately reflect the status of the Department's Y2K Program because the number is misleading, critical systems are not properly identified, and evidence is lacking to validate compliance. We are concerned that the statistics on compliant systems can give the impression that bureaus are making significant progress when the most difficult Y2K conversions may still remain. We are aware, however, that as the Department's new Chief Information Officer (CIO), you have recognized these problems and instituted plans to resolve them. Commerce bureaus are starting to respond both to your new plan and feedback from our inspection.

Your response to our draft report indicates that you agree with our observations and the intent of our recommendations. We summarize your response and follow-up discussions with your staff after each recommendation. A copy of your full response is included as an attachment. We appreciate the cooperation of the Department and the bureaus' staff during this review. We look forward to continue working cooperatively with the CIO and the bureaus to increase confidence that Commerce's operations will not be disrupted by Y2K problems.

BACKGROUND

Many of the Department's computer systems use shorthand two-digit, rather than four-digit, years that will cause inaccurate computations associated with the year 2000. Unless this Y2K problem is fixed, there is serious risk that the Department's business operations will be disrupted because

critical systems will not function properly. If the Department's critical systems are not Y2K compliant then services crucial to our country's well-being, such as weather forecasting, the 2000 Decennial Census, economic reporting, export license enforcement, and intellectual property protection, could be jeopardized.[1] Exacerbating this situation is the fact that the Y2K problem is so pervasive—it could be hiding in many computer programs, computer hardware, data repositories, and external data sources—that weeding out every instance is a massive effort that can strain even the best managed, financed, and technically staffed organization.

In May 1997, OMB issued a memorandum requiring government agencies to file quarterly reports on their progress in making critical systems Y2K compliant. In November 1998, the Department of Commerce reported that 80 percent (367 out of 458) of its critical systems were compliant. The Department compiles quarterly reports from information provided by its constituent bureaus, but until recently has not been verifying this information.

PURPOSE AND SCOPE

The purpose of this review was to determine whether the number of compliant systems reported to OMB accurately reflected the status of the Department's Y2K Conversion Program. We made this determination by assessing the reliability of bureau information used to compile this statistic.

Our approach was to determine whether a sample of systems that were claimed to be Y2K compliant in the Department's quarterly OMB report actually were compliant.[2] To make this determination, we assessed the steps taken to renovate systems to make them compliant, i.e., how Y2K software problems were identified, fixed, and tested. Assessment of the renovation process cannot conclusively prove that a system determined to be compliant will be exempt from Y2K failures. But it can increase confidence that the system will function properly and show that bureaus were diligent in handling Y2K problems. A key element of our assessment was reviewing test documentation, such as test plans, test cases, and test results.

We selected systems for review from the list of critical systems that corresponded to the Department's April 1998 "Quarterly Year 2000 Report" to OMB, the most up-to-date report at the time our inspection started. We selected program, financial, and administrative systems that were reported to be compliant and that appeared to be most critical to each bureau's mission. Then we worked with bureau Y2K coordinators to confirm or revise our selections. Later in the

[1] A system is "Y2K compliant" if it can accurately process data associated with the century change. If it is impractical to make a system compliant either by fixing Y2K errors or replacing the system, bureaus may utilize manual workarounds or other alternatives to deliver, at least, a minimum acceptable level of service.

[2] We did not assess other statistics in the quarterly report, such as the number of critical systems that have been or will be repaired.

assessment, we also tried to limit our review to systems with significant Y2K problems (e.g., systems with many calculations using two-digit years), since they pose greater risk of failure.

We interviewed Department and bureau Y2K coordinators and bureau personnel directly involved in making systems Y2K compliant. We assessed a total of 14 systems at 7 bureaus: Bureau of Economic Analysis (3 systems), Bureau of Export Administration (1), Bureau of the Census (4), Office of Administration (1), International Trade Administration (2), National Institute of Standards and Technology (2), and Patent and Trademark Office (1). Specific systems are listed in the Appendix.

We had planned to assess systems at each of the Department's 12 bureaus but felt it more important to report our initial observations as soon as possible. We did not assess some of the most critical systems because it was already known that they were not yet compliant. Although we assessed only a small sample of systems, we learned enough about the Department's Y2K Conversion Program to make the following observations and conclusions. We plan to continue reviewing the Department's critical systems for Y2K compliance in the near future.

This review was carried out jointly by the OIG's Offices of Systems Evaluation and Audits. In a previous review resulting in a memorandum issued to the Department in October 1997, the Office of Audits concluded that the level of departmental concern and urgency of meeting deadlines associated with Y2K was inadequate. Our work during this review was conducted in accordance with the *Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

OBSERVATIONS

The Reported Number of Compliant Systems Does Not Accurately Reflect the Status of the Department's Y2K Program

The work effort remaining to make the Department's critical systems compliant cannot be confidently determined from the number of compliant systems reported to OMB for several reasons: (1) the reported number of compliant systems is misleading, (2) critical systems were not properly identified, and (3) evidence is lacking to validate compliance. However, the Department's new CIO has recognized these problems and has instituted more comprehensive tracking of Y2K program progress and more stringent testing and validation requirements. Bureaus are starting to react to both the CIO's new plan and our review.

The Reported Number of Compliant Systems Is Misleading

It is widely recognized by the General Accounting Office (GAO) and others that because the Y2K program may be the largest and most complex system conversion effort undertaken by many federal agencies, it requires a disciplined, coordinated approach. To manage such an effort

requires detailed and accurate program status information so that mangers can identify problems and remedy them by redirecting scarce resources and adjusting the program strategy. However, we found that the number of compliant systems reported in the Department's quarterly Year 2000 progress report to OMB is misleading. A combination of factors biases this number: in some cases, bureaus reported systems to be compliant that were not; in other cases, bureaus included non-critical systems that were easily made compliant.

In summary, out of 14 systems assessed, we found only 3 that not only were critical to the bureaus' core business functions but also made significant use of year-specific data. Such systems pose the highest risk and are the kinds of systems that Y2K programs should focus on first. Two of the high risk systems had been renovated while the other was originally programmed to be compliant. One of the two renovated systems was not compliant, and only one of the three had test documentation supporting that it was compliant. The factors that bias the number of compliant systems reported to OMB are discussed more fully below. The table summarizing our assessment is in the Appendix.

Compliance inaccurately reported. Out of 14 systems assessed, we could not confirm that 3 of the systems were compliant primarily because they were not thoroughly tested, particularly for dates in the next century. However, the risk of operational failure was low for two of the non-compliant systems (Census Bureau's Administrative Record Processing and Basic Current Population Survey systems) because they used year data infrequently. The third non-compliant system (BXA's Export Control Automated Support System) used year data extensively—75 percent of its program modules had been renovated. After we pointed out the need for more testing of this system, bureau personnel informed us that more comprehensive testing would be conducted.

Many compliant systems were not critical. Although we selected systems from a list of systems that were supposed to be critical, 5 of the 14 (36 percent) reviewed were not critical.[3] Three of the non-critical systems were from BEA and NIST, which are bureaus that chose to include all their systems, both critical and non-critical, in their OMB reports. Reporting non-critical systems to be compliant overstates the success of the Y2K program. It gives the impression that bureaus are making significant progress, when the most important systems may still require conversion.

Not all critical systems were listed. We determined that critical systems were missing from the list of systems used to compile the Department's OMB report. For example, at the Bureau of the Census, some critical systems for the 2000 Decennial Census, such as the Pre-Appointment Management System/Automated Decennial Administrative Management System and the Data

[3] OMB states that agencies should address their "mission-critical" systems in quarterly reports.

Capture System 2000, were simply not listed. At NOAA, critical systems for two satellite programs were listed as a single system rather than individually. Not listing all critical systems downplays the number of systems requiring attention. (By the end of our review, the Census Bureau had engaged a contractor to validate the compliance of decennial systems. Also, NOAA was working on making its satellite systems Y2K compliant.)

Most systems required little effort to become compliant. Ten out of 11 compliant systems we reviewed required little or no renovation to become compliant. They were either previously programmed to be compliant or had little or no year data to read, manipulate, or display. In one case, the entire renovation consisted of expanding a single year field on a printed report to four digits. Because such a large percentage of systems we assessed were easy to make compliant, we are concerned that the OMB requirement to simply report compliance versus non-compliance can give the impression that bureaus are making significant progress when the most difficult Y2K conversions may still remain.

Critical Systems Are Not Properly Identified

Because correcting Y2K problems can strain resources and the deadline is immovable, care must be taken to address the bureaus' most important systems first. In its Y2K assessment guide, GAO describes a five-phase structured approach for reducing Y2K program risks that includes suggestions for identifying critical systems. In the assessment phase, GAO recommends that agencies rank systems according to their impact on core business functions—that is, take into account what would happen to core services and products if the systems failed. Analysis of core business functions is not only useful for identifying the most critical systems to renovate or replace, but also for contingency planning in case of unforeseen Y2K-induced failures.

We found that bureaus may not have adequately performed this criticality assessment and have had difficulty identifying their critical systems. As stated previously, although OMB requires agencies to report the status of critical systems, we found that 5 out of 14 systems were not critical and that two bureaus (BEA and NIST) chose to include both critical and non-critical in their reports. In one case, a system claimed to be critical had not been run since 1995.

Further evidence that critical systems were inadequately identified comes from the Department's August and November 1998 quarterly OMB compliance reports. For example, in the August report NOAA added 5 systems to its critical list and removed 15 others. In the November report, the total number of critical systems for the Department increased by three. According to GAO, this assessment phase should have been completed by the end of August 1997 to allow enough time to make systems compliant by the year 2000.

Evidence Is Lacking to Validate Compliance

To determine whether systems reported to be compliant actually met compliance requirements, we requested that bureaus provide us with test documentation—test plans, test cases, and test results. However, very little documentation was provided to substantiate that systems were compliant. For 8 of the 14 systems we assessed (including 5 of 11 compliant systems), very little documentation was available to show that the systems were adequately tested.

Also, most bureaus did not have a process for confirming that systems were compliant. Instead, most systems were simply designated compliant by the technical staff involved in making the systems compliant. To increase confidence that systems are Y2K compliant and function properly, they should be validated. Validation is the process of evaluating software to determine its compliance with requirements. Usually an independent agent, such as an internal quality control group or an independent verification and validation contractor, assesses the renovation process (by inspecting code, reviewing test documentation, running tests, etc.) and reports its findings to the manager whose business function depends on the system operating properly. If the report is satisfactory, the business manager can attest to the system's Y2K compliance.

The Department Is Starting to Improve its Y2K Program

The new CIO has observations similar to ours about the Department's Y2K Program. In an October 6, 1998, memorandum to the Deputy Secretary, the CIO stated that the reported number of compliant systems may be "too optimistic," primarily because compliance has not been independently validated and operating unit heads and business mangers have been left out of the reporting chain. In response to these problems, the CIO (1) has required bureau heads to approve Y2K Conversion Program status reports from information provided by their business management chain, (2) has set deadlines for bureaus to present status briefings to the Departments' Deputy Secretary and Chief Financial Officer and Assistant Secretary for Administration, (3) has required the submission of test plans and results for every system reported to be compliant, and (4) plans to use an independent verification and validation contractor to help assess test documentation. We believe the Department's focus on holding bureau management accountable and monitoring the progress of the most critical systems are sound management practices that will improve the Department's Y2K program.

CONCLUSION AND RECOMMENDATIONS

As indicated by the actions described, we believe that the Department is starting to address the weaknesses identified in this report by emphasizing sound business management principles in its Y2K Conversion Program and establishing a process for validating compliance. This effort should increase confidence that bureaus' most critical systems are selected for Y2K conversion,

compliance is substantiated, and managers receive the status information they need to manage their Y2K programs. To reinforce the CIO's actions, we recommend that he ensure that:

1. Bureaus are prioritizing their Y2K efforts by identifying and focusing resources on the most critical systems within core business functions that have the greatest risk of Y2K failures.

   Synopsis of CIO's Response

   The CIO agrees with this recommendation. The CIO will ensure that bureaus are focusing on their most critical, high risk systems by first directing bureaus to identify these systems and then confirming that bureaus' Y2K activities are focusing on them. Specifically, the CIO is directing bureaus to identify their most critical systems by resubmitting system inventories that include the system's criticality ranking, complexity, extent of Y2K problems, and compliance status. As part of the CIO's Y2K oversight responsibilities (reviewing monthly status reports, attending status briefings, etc.), he will confirm that bureaus are actually focusing their current and future Y2K activities (completing conversions, conducting independent validations and end-to-end tests, developing business continuity and contingency plans) on their most critical, high risk systems.

2. Bureaus comply with the requirements to provide test documentation for compliant systems and have operating unit heads attest that systems are compliant.

   Synopsis of CIO's Response

   The CIO agrees with the intent of this recommendation. Rather than request and review system test documentation from all the bureaus, the CIO will implement this recommendation by using a contractor to independently validate 40 of the Department's most important systems and by directing bureaus to submit validation reports prepared by their independent validation agents for all their mission critical systems. As part of their system compliance assessments, these validation agents will review test documentation. The CIO is also directing bureau heads to sign their organization's monthly Y2K status reports. This approach is responsive to our recommendation.

3. For the quarterly OMB report, special efforts should be taken to ensure that:

   a. all critical systems are listed,

   b. non-critical systems are removed,

   c. systems previously reported to be compliant are confirmed to be compliant, and

d. systems that become compliant are reported to be compliant only if they are validated.

Synopsis of CIO's Response

The CIO agrees with the intent of this recommendation. Rather than change the methodology used to report to OMB, the CIO will implement this recommendation by using system inventories that are to be resubmitted by the bureaus (for Recommendation 1) as the basis for maintaining an accurate accounting of compliant mission critical systems. To make sure that systems reported to be compliant are confirmed to be compliant, the CIO will also request that bureaus indicate whether the compliance of systems in the inventory have been independently validated and the method of validation. This approach is responsive to our recommendation.

4. Progress of the most critical, high risk systems is monitored through frequent Department reviews.

Synopsis of CIO's Response

The CIO agrees with this recommendation. Currently, the CIO receives a monthly report from each bureau for systems at risk, that is, those systems that will miss the March 31, 1999 deadline for conversion. The CIO will direct bureau heads to brief him on their Y2K programs in May 1999 and he will report his conclusions to the Secretary.

Appendix

Office of Inspector General's Assessment of Systems Reported to be Y2K Compliant

Bureau and System	Mission Critical	Use of Year Data	Renovated	Test Documents	Adequately Tested	Compliant
Bureau of Export Administration						
Export Control Automated Support System	Yes	High	Yes	No	No	No
Bureau of Economic Analysis						
Budget Obligations and Tracking System	No	Low	No (a)	Yes	Yes	Yes
National Stock Funds Processing System	No	I/O Only	Yes	Yes	Yes	Yes
State and Local Government GDP Processing System	Yes	Low	No (a)	Yes	Yes	Yes
Bureau of the Census						
Administrative Record Processing	Yes	Low	No (a)	No	No	No
Industry and Occupational Codes	No	None	No (b)	No	Yes	Yes
Basic Current Population Survey	Yes	Low	Yes	No	No	No
Small Area Income and Poverty Estimates	No	None	No (b)	No	Yes	Yes
National Institute of Standards and Technology						
Accounts Payable System	Yes	High	Yes	Yes	Yes	Yes
Corporate Information System Financial Database System	No	I/O Only	Yes	Yes	Yes	Yes
General Administration						
Time and Attendance System	Yes	I/O Only	Yes	Yes	Yes	Yes
International Trade Administration						
Central Records Information Management System	Yes	Low	No (a)	No	Yes	Yes
ITA Accounting System	Yes	Low	No (a)	No	Yes	Yes
Patent and Trademark Office						
Revenue Accounting Management System	Yes	High	No (a)	No	Yes	Yes

*** See Legend and Criteria on the following page ***

Appendix (Continued)

Legend and Criteria for Office of Inspector General's Assessment of Systems Reported to be Y2K Compliant

Mission Critical

Yes = System is part of a business process that is crucial to the bureau's mission
No = System is not part of a business process that is crucial to the bureau's mission

Use of Year Data

I/O Only = Input/Output only (no calculations, data entry/display only)
Low = Few calculations
High = Many system modules affected

Renovated

Yes = System renovated specifically to become Y2K compliant
No = System not renovated specifically to become Y2K compliant:
(a) Not renovated because system was programmed to be compliant by either bureau staff or contractors
(b) Not renovated because system does not use year data

Test Documents

Yes = Test cases and results available for review
No = Test cases and results not available for review

Adequately Tested

Yes = System tested for current and future dates; extent of testing commensurate with risk (i.e., criticality and extent of year data use)
No = Systems not tested for current and future dates

Compliant

Yes = Adequately tested or assumed to be compliant because contractor is required to deliver a Y2K compliant system (however, it may be advisable for the bureau to perform additional tests)
No = Not adequately tested

Attachment

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MAR 2 1999

MEMORANDUM FOR Judith J. Gordon
Assistant Inspector General for Systems Evaluation

FROM: Roger W. Baker
Chief Information Officer

SUBJECT: Draft Year 2000 Inspection Report

Thank you for your draft Year 2000 Inspection Report of February 11, 1999. We appreciate the spirit of collaboration between our offices on this critical issue. We respect your observations and recommendations, but would like to offer some alternative views and approaches to strengthening the year 2000 program. The discussion below addresses each of your key observations and then offers a revised set of recommendations.

Observations:

The Reported Number of Compliant Systems is Misleading. We agree that the year 2000 statistics reported to the Office of Management and Budget, as with any statistics, must be viewed carefully and, if not fully understood, may be misleading. You point to the inclusion of a mix of mission-critical and non-mission-critical systems as a cause for concern and note specifically that BEA and NIST have chosen to classify all their systems as mission critical. Rather than a cause for concern, we see the BEA and NIST approaches as a positive sign of full commitment to tackling the year 2000 problem.

What can be misleading in the statistics is the scope and magnitude of the effort to make the systems compliant. Some systems are large and complex; some have many date dependencies. Others are smaller; some have few date dependencies. These distinctions can be difficult to sort out. This issue is exacerbated by the system component level at which an operating unit reports. You note correctly that NOAA reported two satellite programs as a single system and see this as an instance of under reporting. The system component level at which an operating unit reports is a judgment call; fine and gross breakdowns have their respective merits and deficiencies. We have grappled with system definitions to try to ensure a more consistent level of reporting, but have not identified anything acceptable. OMB is faced with the same issue. I believe the best solution is to allow the operating units to take the approach that is most expedient to their business needs and to understand what the statistics do and do not represent and use them accordingly. We do agree that the compliance level shown may be optimistic, largely because it is likely to include a disproportionate number of smaller, less complex systems with fewer date dependencies.

Rather than changing our reporting methodology at this late date and causing consistency problems, I suggest that we ask the operating units to resubmit their system inventories with specific reference to reevaluating their systems in rank order or on a scale of 1-5 as was requested in our May 29, 1997, memorandum to operating unit heads (attached). This will help both of our units to identify the critical systems, which is the key issue. The inventory will also provide some measure of system magnitude.

Critical Systems Are Not Properly Identified. We agree that identification of the most critical systems, as well as those that are most at risk, is key. The above discussion suggests an approach to dealing with this issue.

Please note that though the assessment phase was completed in March 1997, this does not imply that the total number of mission-critical systems will be static. In the normal course of business, new systems are added to meet new program needs; old systems are retired. In some cases, as operating units work more closely with their systems, refinements and redefinitions of systems are made. BEA, in particular, has made some considerable efforts to refine the distinction between a project and a system. These efforts indicate continuing management attention, not just to the year 2000 issue but to managing a portfolio of information technology investments.

Also, though it is imperative to ensure that the most critical systems are compliant, it may not be the best management decision to address only the most critical systems first, and only the less critical systems later. If there are some less critical systems that require relatively little effort to make compliant, why not tackle them sooner and get them out of the way? Local year 2000 managers should be allowed to make their own business decisions in this regard. In the end, we would like all systems, mission-critical and non-mission-critical, to be compliant.

Evidence is Lacking to Validate Compliance. We agree that this is true in many cases. As you know, to address this issue, we are moving forward with a contract at the Department-level to verify and validate independently about 40 core business systems or systems deemed to be at risk. Test documentation will be a key factor in the evaluations. We have shared our list of candidate systems with you and welcome your input.

We have also encouraged the operating units to pursue their own independent verification and validation efforts. In recent briefings from operating unit heads, we heard many positive reports about these initiatives. For instance, PTO performs independent verification and validation on all system development efforts, not just year 2000 conversions, and posts the results on their intranet for all interested parties to see.

Recommendations:

To ensure that we focus on the most important issues and strengthen the year 2000 management program further, I suggest the following actions:

- Request that operating units resubmit their system inventories, with particular focus on the criticality ranking.

- Proceed with the independent verification and validation efforts, with emphasis on test documentation and business continuity and contingency plans.

- Repeat the briefings from operating unit heads to the CIO in May 1999. Prepare a summary report for the Secretary.

- Require operating unit heads to submit monthly detailed reports on systems that miss the March 1999 target implementation date. (NTIS is currently submitting weekly status reports.)

Again, we appreciate the collaboration with your office and hope that we can come to an agreement about next steps. Our goals are the same.

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MAY 29 1997

MEMORANDUM FOR Administrative Officers
IRM Senior Officials

FROM: Alan P. Balutis
Director for Budget, Management and Information
and Deputy Chief Information Officer

SUBJECT: GAO Year 2000 Assessment Findings

On April 4, 1997, the General Accounting Office (GAO) conducted an assessment of the Department's year 2000 program management. GAO identified several areas of concern.

- A high-level year 2000 program plan and strategy have not been documented.
- Project staffing is not dedicated full time to year 2000 efforts.
- Year 2000 compliance is not defined.
- System conversions are not prioritized.
- Inventories do not identify internal and external interfaces or show which systems are to be renovated, replaced, or retired.

As a result of this assessment, I am requesting that operating units take the following actions to ensure first-class program management of this critical effort:

- Update year 2000 inventories to include, at a minimum: the system name, hardware platform(s), software program(s) including version number, source lines of code and source lines of code to be modified (or some other measurement criterion), external and internal interfaces, and system status (i.e., compliant, renovating, replacing, or retiring).
- Assign a priority to each system being renovated or replaced. You may rank order all systems or provide a priority on a scale of 1-5, where 1 is the highest priority.
- Ensure project staffing is proper for the level of effort anticipated.

Submit updated inventories, including priorities, to Michael Hill, H6625, 1401 Constitution Avenue, N.W., Washington, D.C. 20230, or fax at (202) 482-0582, by June 27, 1997.

I have attached a copy of a memorandum dated February 11, 1997, that was distributed to IRM Senior Officials and Heads of Contracting Offices. That memorandum forwarded a copy of an interim Federal Acquisition Regulation (FAR), dated January 1, 1997, that provides a definition for year 2000 compliance. All operating units will use this definition in their year 2000 efforts and will ensure that solicitations and contracts address the year 2000 issue when acquiring technology required to perform date/time processing involving dates subsequent to December 31, 1999.

Departmental personnel are documenting a year 2000 program plan and strategy, which will be provided to your Year 2000 Working Group representative for comments before it is issued formally.

With your assistance, we will ensure that the Department of Commerce is positioned to carry its work forward into the next century. If you have any questions, please contact Michael Hill at (202) 482-0582.

Attachment

cc: Raymond G. Kammer, Jr.
Rita Hull
Ron Hack
Jim McNamee
Hugh Brennan
Scott Gould
Year 2000 Working Group

UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

FEB 11 1997

MEMORANDUM FOR IRM Senior Officials
Heads of Contracting Offices

FROM: Alan P. Balutis
Director for Budget, Management and Information
and Deputy Chief Information Officer

Kenneth J. Buck
Acting Director for Acquisition Management
and Procurement Executive

SUBJECT: Federal Acquisition Regulation; Year 2000 Compliance

The Federal Acquisition Regulation (FAR) has been amended to increase awareness of Year 2000 procurement issues and to ensure that solicitations and contracts address Year 2000 issues. The interim FAR amendment (FAR Case 96-607), attached, was published in the Federal Register on January 2, 1997. This amendment defines the term "Year 2000 compliant" and requires agencies to acquire information technology which is Year 2000 compliant or upgrade non-compliant information technology to be Year 2000 compliant.

The FAR amendment does not propose a FAR solicitation provision or contract clause for incorporation into contractual documents. Rather, agencies may use either specifications or a warranty developed in cooperation with industry by the Federal Interagency Working Group on the Year 2000. The warranty and additional information about how to address Year 2000 issues can be found on the Working Group's home page which is located on the internet at: http://www.itpolicy.gsa.gov.

Comments on this interim rule are due to the FAR Secretariat by March 3, 1997. We intend to submit a Department of Commerce written position on this case, which we will advocate through our representation on the Civilian Agency Acquisition Council. Therefore, we solicit your comments for developing the Commerce position. Please forward your comments to Mike Hill at Department of Commerce, HCHB RM 6625, 1401 Constitution Ave., NW, Washington, DC 20230. You may E-mail a copy to Mike "mhill@doc.gov" or fax at (202) 482-4218. Comments are due no later than February 25, 1997.

If you have any questions, please contact Mike Hill at (202) 482-4218 or Greg Crider at (202) 482-4248

Attachment

)f the National Aeronautics and Space Administration that urgent and compelling reasons exist to promulgate his interim rule without prior opportunity for public comment. This action is necessary to ensure that Federal agencies do not procure non-compliant information technology products that would otherwise require premature replacement or costly repairs o make them Year 2000 compliant before December 31, 1999. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 39 and 52

Government procurement.

Dated: December 24, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 39 and 52 are amended as set forth below:

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

1. The authority citation for 48 CFR Parts 39 and 52 continues to read as follows:

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

2. Section 39.002 is amended by adding, in alphabetical order, the definition "Year 2000 compliant" to read as follows:

39.002 Definitions.

* * * * *

Year 2000 compliant means information technology that accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations. Furthermore, Year 2000 compliant information technology, when used in combination with other information technology, shall accurately process date/time data if the other information technology properly exchanges date/time data with it.

39.106 [Redesignated as 39.107]

3. Section 39.106 is redesignated as 39.107, and a new section 39.106 is added to read as follows:

39.106 Year 2000 compliance.

When acquiring information technology that will be required to perform date/time processing involving dates subsequent to December 31, 1999, agencies shall ensure that solicitations and contracts—

(a)(1) Require the information technology to be Year 2000 compliant; or

(2) Require that non-compliant information technology be upgraded to be Year 2000 compliant prior to the earlier of

(i) the earliest date on which the information technology may be required to perform date/time processing involving dates later than December 31, 1999, or

(ii) December 31, 1999; and

(b) As appropriate, describe existing information technology that will be used with the information technology to be acquired and identify whether the existing information technology is Year 2000 compliant.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.239–1 [Amended]

4. Section 52.239–1 is amended in the introductory text by revising "39.106" to read "39.107".

[FR Doc. 96–33218 Filed 12–31–96; 8:45 am]

BILLING CODE 6820–EP–P

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48 CFR Part 42

[FAC 90–45; FAR Case 96–324; Item XV]

RIN 9000–AH52

Federal Acquisition Regulation; Limitation on Indirect Cost Audits

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) implementing Section 808 of the FY 97 Defense Authorization Act (Pub. L. 104–201), which expands required audit reciprocity among Federal agencies to include post-award audits. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–45, FAR case 96–324.

SUPPLEMENTARY INFORMATION:

A. Background

This FAR change implements Section 808 of the Fiscal Year 1997 National Defense Authorization Act (Public Law 104–201). Section 808 amends 10 U.S.C. 2313(d) and 41 U.S.C. 254d(d) to expand required audit reciprocity among Federal agencies to include post-award audits. Section 808 was effective September 23, 1996. 10 U.S.C. 2313(d) and 41 U.S.C. 254d(d) were added by the Federal Acquisition Streamlining Act of 1994, Sections 2201(a)(1) and 2251(a) (Public Law 103–355), to include reciprocity on pre-award audits.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–45, FAR case 96–324), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 42

Government procurement.

Dated: December 24, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 42 amended as set forth below:

PART 42—CONTRACT ADMINISTRATION

1. The authority citation for 48 CFR Part 42 continues to read as follows:

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

2. Section 42.703–1 is amended by revising paragraph (a) to read as follows:

42.703–1 Policy.

(a) A single agency (see 42.705–1(a)) shall be responsible for establishing indirect cost rates for each business unit. These rates shall be binding on all agencies and their contracting offices, unless otherwise specifically prohibited

36.303–1 Phase One.

(a) Phase One of the solicitation(s) shall includ—

(1) The scope of work;

(2) The phase-one evaluation factors, including—

(i) Technical approach (but not detailed design or technical information);

(ii) Technical qualifications, such as—

(A) Specialized experience and technical competence;

(B) Capability to perform;

(C) Past performance of the offeror's team (including the architect-engineer and construction members); and

(iii) Other appropriate factors (excluding cost or price related factors, which are not permitted in Phase One);

(3) Phase-two evaluation factors (see 36.303–2); and

(4) A statement of the maximum number of offerors that will be selected to submit phase-two proposals. The maximum number specified shall not exceed five unless the contracting officer determines, for that particular solicitation, that a number greater than five is in the Government's interest and is consistent with the purposes and objectives of two-phase design-build contracting).

(b) After evaluating phase-one proposals, the contracting officer shall select the most highly qualified offerors (not to exceed the maximum number specified in the solicitation in accordance with 36.303–1(a)(4)) and request that only those offerors submit phase-two proposals.

36.303–2 Phase Two.

(a) Phase Two of the solicitation(s) shall be prepared in accordance with part 15, and include phase-two evaluation factors, developed in accordance with 15.605. Examples of potential phase-two technical evaluation factors include design concepts, management approach, key personnel, and proposed technical solutions.

(b) Phase Two of the solicitation(s) shall require submission of technical and price proposals, which shall be evaluated separately, in accordance with part 15.

11. Subpart 36.4 is added and reserved to read as follows:

Subpart 36.4—Commercial Practices [Reserved]

[FR Doc. 96–33217 Filed 12–31–96; 8:45 am]
BILLING CODE 6820–EP

48 CFR Parts 39 and 52

[FAC 90–45; FAR Case 96–607; Item XIV]

RIN 9000–AH51

Federal Acquisition Regulation; Year 2000 Compliance

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 are amending the FAR on an interim basis to increase awareness of Year 2000 procurement issues and to ensure that solicitations and contracts address Year 2000 issues. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* January 1, 1997. *Comment Date:* Comments should be submitted to the FAR Secretariat at the address shown below on or before March 3, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405. Please cite FAC 90–45, FAR case 96–607 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–45, FAR case 96–607.

SUPPLEMENTARY INFORMATION:

A. Background

Many information technology systems will have operational difficulties due to the use of two-digit years in date representations. While commonly thought to be a problem of old legacy systems, it can also be a problem in information technology services and products that are for sale today.

At the recommendation of the Chief Information Officers Council and the interagency working group on the year 2000, the Federal Government intends to only acquire products that will work in the year 2000. This interim rule is intended to assist in the implementation of that intent. It provides a uniform approach and definition for addressin the year 2000 problem in the many, unique information technology acquisitions that will occur between now and the year 2000.

The rule defines the term "year 200 compliant." It also requires that agencies assure that when acquiring information technology which will be required to perform date/time processing involving dates subsequen to December 31, 1999, the solicitation and contracts either require year 2000 compliant technology, or require that non-compliant information technolog be upgraded to be compliant in a time manner. The rule also recommends th agency solicitations describe existing information technology that will be used with the information technology be acquired and identify whether the existing information technology is Yea 2000 compliant.

Additional information about the ye 2000 problem and the activities of the interagency working group on the year 2000 can be found on the group's home page located at URL http://www.itpolicy.gsa.gov.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule primarily pertains to internal Government acquisition planning guidance regarding the acquisition of major systems of information technology. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR part also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite FAR case 96–607 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense, the Administrator of General Services (GSA), and the Administrator