

Item VIII—Deviations—FAR Part 31 (FAR Case 91-46)

FAR 31.101 is amended to change the authority for approval of class deviations from the FAR part 31 cost principles for the Department of Defense.

Item IX—Novation and Change of Name Agreements (FAR Case 90-65)

FAR 42.1205(a)(3) is amended by making the submission requirements for "total dollar value as amended" and the "remaining unpaid balance" required only if requested by the contracting officer. It is felt that this data is not needed in all cases and in most, if not all cases, it is out of date shortly after receipt.

Item X—Termination of Contracts (Defense Management Review) (FAR Case 91-43)

FAR 49.101(f) is added to clearly establish that the release of excess funds after termination is the responsibility of the contracting officer unless specifically delegated to the termination contracting officer. A corresponding change is made to 49.105-2. FAR 49.110(a) is amended by revising its heading to read "Settlement negotiation memorandum" to differentiate from the memorandum developed under 15.800, Price Negotiation.

Item XI—Extraordinary Contractual Actions (FAR Case 91-15)

As a result of recent statutory revisions to 50 U.S.C. 1431, FAR 50.203(b)(4) is being revised by removing the words "and neither House of Congress has adopted a resolution disapproving the obligation."

Item XII—Inspection of Services—Fixed-Price (FAR Case 90-58)

FAR 52.246-4, Inspection of Services—Fixed-Price, is revised to allow the Government to inspect or test at the contractor's or subcontractor's facility and requires the contractor to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties.

Item XIII—Technical Amendments and Corrections

Technical amendments or corrections have been made to FAR sections 8.705-2, 8.705-4(a), 22.1003-5(k), 33.103(b)(1), 45.608-8(b), 52.202-1, 52.215-39, 52.228-11(b)(1), and 53.203(b) to correct inaccuracies and update information. The authorization for use and local reproduction of Optional Form 333 requires a pen-and-ink change by

revising the date to read "March 31, 1992".

Dated: December 19, 1991.

Albert A. Vicchiolla,
Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

[Number 90-9]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-9 is effective February 25, 1992, except for Items V and VI, which are effective December 27, 1991.

Dated: December 4, 1991.

Eleanor R. Spector,
Director of Defense Procurement.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-9 is effective February 25, 1992, except for Items V and VI, which are effective December 27, 1991.

Dated: December 11, 1991.

Richard H. Hopf, III,
Associate Administrator, for Acquisition Policy, General Services Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-9 is effective February 25, 1992, except for Items V and VI, which are effective December 27, 1991.

Dated: December 17, 1991.

Darleen A. Druyun,
Assistant Administrator for Procurement, NASA.

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DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 5**

[FAC 90-9; FAR Case 91-44; Item I]

RIN 9000-AE39

Federal Acquisition Regulation; Publicizing Procurement Actions

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 to make changes to the Federal Acquisition Regulation (FAR) to amend FAR 5.207(b)(4) to provide contracting officers more explicit instructions on synopsisizing information for publication in the Commerce Business Daily.

EFFECTIVE DATE: February 25, 1992.

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 4041, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-9, FAR case 91-44.

SUPPLEMENTARY INFORMATION:**A. Background**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council believe that in order to increase subcontracting opportunities for small business, Commerce Business Daily (CBD) synopses must include clear, concise descriptions of the supplies or services needed. Such information will allow interested parties to make informed business judgments as to whether they can participate in a Government contract. The instructions being provided to contracting officers by this rule will improve the quality of CBD synopses, thereby increasing potential for subcontracting opportunities.

B. Regulatory Flexibility Act

This rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply. 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 FAR case 91-44 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.* Approval for the affected FAR segments was

originally provided under OMB Control Number 9000-0102.

List of Subjects in 48 CFR Part 5

Government procurement.

Dated: December 19, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 5 is amended as set forth below:

PART 5—PUBLICIZING CONTRACT ACTIONS

1. The authority citation for 48 CFR part 5 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).

5.207 [Amended]

2. Section 5.207 is amended in the text following paragraph (b)(4) by inserting at the end of Item 8 the parenthetical "(200 character spaces available.);"; and at the end of Item 17, removing the last parenthesis and inserting the sentence "Insert N/A when synopsizing awards.)"

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 5

[FAC 90-9; FAR Case 91-54; Item II]

Federal Acquisition Regulation; Time Change for Announcement of Contract Awards

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 to amend FAR subpart 5.3 to change the time for announcement of contract awards from 4 p.m. to 5 p.m. Eastern time.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott at (202) 501-0168 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4041, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-9, FAR case 91-54.

SUPPLEMENTARY INFORMATION:

A. Background

The U.S. Securities and Exchange Commission has authorized the New York Stock Exchange to trade stocks for one additional hour each trading day. The trading day will now end at 5 p.m. Eastern time instead of 4 p.m. Eastern time. Accordingly, the time for announcement of contract awards has been changed to 5 p.m. Eastern time.

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 comment is not required. Therefore, the Regulatory Flexibility Act does not apply. 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 FAR case 91-54 in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 5

Government procurement.

Dated: December 19, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 5 is amended as set forth below:

PART 5—PUBLICIZING CONTRACT ACTIONS

1. The authority citation for 48 CFR part 5 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).

5.303 [Amended]

2. Section 5.303(a) is amended in the first sentence by adding "5 p.m." after the word "by" and in the third sentence by revising "4 p.m." to read "5 p.m."

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8 and 9

[FAC 90-9; FAR Case 90-47; Item III]

RIN 9000-AE49

Federal Acquisition Regulation; Surveys of Blind and Other Severely Handicapped Workshops

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 to amend § 8.702 and add § 9.107 to include guidance on capability surveys for the blind and other severely handicapped workshops. The purpose of such guidance is to inform contracting officers as to their role in determining the responsibility of blind and other severely handicapped workshops.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Edward C. Loeb at (202) 501-4547 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4041, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-9, FAR case 90-47.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577; consequently, the Regulatory Flexibility Act does not apply.

B. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 8 and 9

Government procurement.

Dated: December 19, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 8 and 9 are amended as set forth below:

1. The authority citation for 48 CFR parts 8 and 9 continues to read as follows:

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

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.702 [Amended]

2. Section 8.702 is amended in paragraph (a) by removing the semicolon at the end of the sentence and inserting in its place "[see 9.107];"

PART 9—CONTRACTOR QUALIFICATIONS

3. Section 9.107 is added to read as follows:

9.107 Surveys of blind and other severely handicapped workshops.

(a) The Committee for Purchase from the Blind and Other Severely Handicapped (Committee), as authorized by 41 U.S.C. 46-48c, determines what supplies and services Federal agencies are required to purchase from workshops for the blind and other severely handicapped (see subpart 8.7). The Committee is required to find a workshop capable of producing the supplies or providing the services before the workshop can be designated as a mandatory source under the Committee's program. The Committee may request a contracting office to assist in assessing the capabilities of a workshop.

(b) The contracting office, upon request from the Committee, shall request a capability survey from the activity responsible for performing preaward surveys, or notify the Committee that the workshop is capable, with supporting rationale, and that the survey is waived. The capability survey will focus on the technical and production capabilities and applicable preaward survey elements to furnish specific supplies or services being considered for addition to the Procurement List.

(c) The contracting office shall use the Standard Form 1403 to request a capability survey of blind and other severely handicapped organizations.

(d) The contracting office shall furnish a copy of the completed survey, or notice that the workshop is capable and the survey is waived, to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 9

RIN 9000-AE-25

[FAC 90-9; FAR Case 90-56; Item IV]

Federal Acquisition Regulation; Debarment, Suspension, and Ineligibility

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 to add to FAR 9.406-1(a) a list of 10 examples of remedial measures or mitigating factors that debarring officials should consider when making a decision to debar a contractor. Additionally, new language at 9.407-1 suggests consideration of the remedial measures or mitigating factors in connection with suspension actions.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb at (202) 501-4547 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4041, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-9, FAR case 90-56.

SUPPLEMENTARY INFORMATION:

A. Background

This revision is part of an on-going effort to make suspension and debarment procedures uniform throughout the Federal Government. The change will add remedial measures or mitigating factors for use by debarring officials when making debarment decisions. The remedial measures and mitigating factors may be considered by suspension officials in reaching a decision concerning a suspension action.

B. Regulatory Flexibility Act

This change is not expected to have a significant cost or administrative impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely provides procedural and policy guidance to debarring and suspending officials and imposes no requirements of any kind upon small entities.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 9

Government procurement.

Dated: December 19, 1991.

Albert A. Vicchiolla,
Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 9 is amended as set forth below:

PART 9—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR part 9 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 9.406-1 is amended by revising paragraph (a) to read as follows:

9.406-1 General.

(a) It is the debarring official's responsibility to determine whether debarment is in the Government's interest. The debarring official may, in the public interest, debar a contractor for any of the causes in 9.406-2, using the procedures in 9.406-3. The existence of a cause for debarment, however, does not necessarily require that the contractor be debarred; the seriousness of the contractor's acts or omissions and any remedial measures or mitigating factors should be considered in making any debarment decision. Before arriving at any debarment decision, the debarring official should consider factors such as the following:

(1) Whether the contractor had effective standards of conduct and internal control systems in place at the time of the activity which constitutes cause for debarment or had adopted such procedures prior to any Government investigation of the activity cited as a cause for debarment.

(2) Whether the contractor brought the activity cited as a cause for debarment to the attention of the appropriate Government agency in a timely manner.

(3) Whether the contractor has fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the debarring official.

(4) Whether the contractor cooperated fully with Government agencies during